



# **Department of Motor Vehicles Post-Licensing Control Management Information System Fiscal Year 2000/2001**

## **Administrative Per Se (APS)**

**January 2002**

## **PREFACE**

This report is issued as an internal monograph of the California Department of Motor Vehicles' Research and Development Branch. The opinions and conclusions expressed in the report are those of the author and not necessarily those of the State of California.

## **ACKNOWLEDGMENTS**

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## BACKGROUND

An early Department of Motor Vehicles (DMV) study (Poon, 1979) described the need for operational process measures to be tracked over time to provide departmental management with objective measures for assessing the success of departmental operations in meeting management expectations. Poon recommended that the department establish a comprehensive management information system (MIS) that would consist of well defined statistical data presented on a routine basis to establish historical data that could then be used in departmental decision making processes regarding budgeting, long range planning, legislative bill analysis, program evaluation, special studies, and resource allocation for the line divisions.

A MIS can help minimize the potentially costly risks of either failing to detect operational trends that don't comply with policy or law or falsely assuming a problem exists and altering policy on the basis of an isolated event that doesn't actually amount to a problematic trend.

The specific need for a Post-Licensing Control MIS has also long been recognized. In 1988, in collaboration with the Driver Safety (DS) Branch, the Research and Development (R&D) Branch developed for upper departmental management a series of unpublished issue papers and memoranda establishing a "wishlist" of measures that could be useful to Driver Safety management in devising an automated MIS process. That wishlist included measures for tracking DS processes, productivity, and quality of service including specific measures of timeliness, legal conformance, policy uniformity and traffic safety impact.

That early plan called for detailed tracking including:

- Decision process tracking – determining the types of actions ordered, by type of hearing, by Hearing Officer (then referred to as Driver Safety Referees).
- Administrative review tracking – determining how often each Hearing Officer's case decisions are reviewed in a subsequent departmental review process. Of those cases reviewed, determining how often the decisions are overturned.
- Tracking of timeliness – determining how long it takes to complete the hearing process.
- Tracking the "work mix" – determining the relative frequencies of different hearing types for each Hearing Officer.

- Tracking sources of entry into the system, by geographic area – determining the relative frequencies, in different geographic areas, of the different types of qualifying events for hearings.

DS has attempted to address some of the early MIS recommendations with their development and release of data tables, produced using Crystal Pro software, from data entered in the DS Application. The DS Application is a stand-alone computer database that is independent of the Driver Record Database. The data tables produced from the DS Application present DS office or regional workload processes and Hearing Officer performance measures. A (recently concluded) joint task force comprised of management and staff from R&D and DS was formed for the purpose of improving the utility of the DS Application data tables. The task force surveyed and conducted brainstorming sessions with various DS management levels to obtain specific refinements and/or enhancements considered necessary to effectively oversee specific DS operations. Many of the task force recommendations have been passed on to the newly formed Licensing Operations Division (LOD) MIS unit within LOD Staff Services for implementation.

These DS Application tables are important, and should continue to be supported. However, the tables produced by the DS Application have mostly provided “snapshot” data for one moment in time and do not lend themselves to easy interpretation or tracking. The DS Application has also often provided inconsistent or invalid data that the DS Application team and LOD MIS unit continue to correct.

Given the ongoing problems and limitations of the DS Application data tables, in 1998, R&D proposed developing a post-licensing control MIS which ultimately resulted in this current report. The major focus of most R&D program evaluations has been on program outcomes, i.e., the extent to which driver licensing or driver safety program contacts reduce subsequent rates of convictions and/or crashes. In a concept paper developed to propose this current report, Janke and Peck (1998) pointed out that so-called “outcomes” have certain limitations, including that they do not provide information on the process quality or operational adherence to policy or legal requirements.

In their initial project proposal, Janke and Peck proposed that this process evaluation or management information system should be capable of:

- providing information needed by management for continuing evaluation and control of DS activities,

- providing the data necessary for future planning, scheduling, and staffing of DS activities,
- providing data for use in describing the contributions of DS to other governmental agencies and the public, and
- initiating corrective actions in response to any evidence of declining effectiveness.

Each of these process areas provides information regarding the sufficiency of departmental policies in ensuring compliance with legal requirements, and the efficiency in operationalizing those policies. In turn, the policies, and how well they are operationalized, will shape the ultimate outcome or effectiveness of the legal sanctions. In a process evaluation, indications of achieving the desired outcome (such as a reduction in DUI crashes) can be assessed by measuring compliance with departmental sanctioning of DUI offenders (such as high APS suspension sustain rates). The goal of a process evaluation is to assess the level of operational conformance to law and policy. The extent to which the process measures show conformance to the laws provides an indirect measure of the success of the desired outcome (reducing DUI crashes), at least to the extent that the laws are capable of producing the desired effect.

Janke & Peck (1998) suggested that the DS MIS should provide for continuous reporting. They observed that “demands for service and the level of response to those demands are constantly changing. Information generated by the MIS must reflect these changes through providing information on trends over time, based on historical data.” Therefore, in keeping with the recommendations of Janke & Peck, this report provides a section of process measures summarized by DS region. Where great variation is indicated between regions, it may be necessary for the reader to obtain further delineation of the process by requesting the data displayed at the office level.

In this first report the regional data is only expressed as totals within each region. In future reports, these regional data will be expressed as percent deviations from the statewide mean. This will allow the reader to more readily compare the differences between regions on any given measure displayed. For now, some percent differences are highlighted in bullets presented with the relevant regional graphs.

Finally, Janke and Peck suggested evaluating each DS process separately, since DS processes vary widely in terms of population, addressed objectives, and legal authority to act. This report will focus on process measure trends describing the department’s conformance with the APS laws and policies. Future reports will also separately summarize other DS processes such as administering neg-op suspensions/revocations, or P&M actions.

This report is intended to provide long term historical data that is easily interpretable. Therefore, much of the information presented in the report is in graphical form to provide an easily interpretable visual display showing the level of conformity or changing trends within each process area. The trends should reveal the degree to which the particular Driver Safety processes conform with policy and provide some indication of the extent to which the policies themselves are consistent with the intended outcome. It is also intended to provide an indication of the extent to which processes and actions are consistent from one DS region to another and the extent to which the process measures improve or degrade over time.

#### The Post-Licensing Control Management Information System

This report is the first annual post-licensing control management information system (PLC MIS) report established to address the need for a comprehensive data and monitoring system to provide measures of the operational effectiveness of the various post-licensing control processes. This first MIS report focuses solely on assessing the operational effectiveness of the APS system performance. This report is intended to provide an assessment of the quality of departmental APS system operations. It is a compilation of information obtained from the California Driver Record database and the DMV Legal Office database of APS licensing activity and actions pertaining to California drivers. The information presented here is also intended to provide a means of validating any related DS Application data tables, which is an important function of this report.

The Driver Safety Branch is continuously seeking ways of monitoring the operations of its various programs. To do this effectively, reliable historical trends obtained from among the data minutiae are needed on an ongoing basis. This MIS is intended to assist those in the Driver Safety Branch who are charged with the responsibility of implementing and effectively maintaining the post-licensing control program, with this first report specifically depicting the APS program trends. It provides factual, and routinely available, information that should enable better informed data-driven decisions regarding the operation of these post-licensing control programs. Future PLC MIS reports will incorporate new information, as considered important, on the basis of response to this report. All future reports will encompass, to the extent possible, action summaries and trends obtained from the driver record database related to APS and all other post-licensing driver control areas commonly handled by the Driver Safety Branch.

Where possible, the APS data are presented for each of the first 11 years that the administrative license suspension/revocation laws have been in effect. That is, most of the data are presented from fiscal year 1990/1991 (FY 90/91), the year that the

initial California APS laws were implemented, through fiscal year 2000/2001(FY 00/01), the most recent year for which data were available at the time of compiling this report. The reader is cautioned that in each figure presented throughout this report, the data shown are as of the date the data were summarized, for each year presented. Therefore, for example, some additional cases may have been set aside following the data extraction date and those actions would not be reflected here. However, it is unlikely that the total of such actions would be large enough to significantly alter the trends presented in this report. All of the data presented in this report were extracted annually, allowing an additional one to two months update time to elapse prior to extracting the year-end data. This buffer period of one to two months was allowed between the end of the reporting period and the data extraction date to ensure that most of the driver records would be properly updated with the most recent activity. This delay in extracting the data should result in most of the driver records being complete prior to their extraction.

#### The Administrative Per Se (APS) License Suspension/Revocation Law

Typically, each year, roughly three quarters of drivers arrested for driving under the influence (DUI) in California are actually convicted of the offense, and often only after long delays following the offense. The administrative per se (APS) license suspension/revocation law was introduced to address these adjudicative exigencies and to swiftly impose a proven effective DUI countermeasure (license suspension). The APS suspension action represents a timely, administrative action that the DMV takes against DUI offenders on the per se basis of evidence of driving with a blood alcohol concentration (BAC) in excess of the legal limit of 0.08% for drivers aged 21 or over and, as of January 1, 1994, 0.01% for drivers under age 21. This administrative departmental action is independent of the criminal DUI prosecution and, it will be shown, is imposed on considerably more DUI arrestees than are convicted under the criminal statutes.

Research has consistently demonstrated that license suspension is among the most effective DUI countermeasures available (see, for instance, Sadler, Perrine & Peck, 1991; Williams, Hagen & McConnell, 1984). In two separate Research and Development studies of the effectiveness of the two laws that lowered California's per se BAC limit to 0.08% and introduced the administrative license action laws, it was found that imposition of the APS law was associated with up to a 13% drop in subsequent alcohol-involved crashes among potential drunk drivers (Rogers, 1995). It was also found that subsequent crashes and recidivism (reoffense) rates were reduced by 19% to 37% for DUI offenders arrested after the law was implemented, compared to those of offenders arrested before the law (Rogers, 1997). This improvement occurred whether or not the offenders were ever convicted of the DUI offense and is especially noteworthy given the fact that California has long employed

post-conviction license suspension as a primary DUI sanction. Studies from other states have also generally found significant general deterrent effects of their administrative license suspension laws (Blomberg, Preusser, & Ulmer, 1987; Cleary & Rodgers, 1986; Lacey, Stewart, Marchetti, and Jones, 1990; McDonald et al., 1987; Muller, 1989; and Ross, 1991) and in studies comparing the general deterrent impact of various sanction options, administrative license actions have been shown to be superior in causing a general deterrent impact (Klein, 1989; Zador, Lund, Fields, & Weinberg, 1988). In short, California's administrative per se license suspension law saves lives by virtue of its immediacy, certainty, and severity.

To track the department's APS process measures each year since the law was enacted, Research and Development has published the "California Administrative Per Se Facts" report (Rogers, 1991-2001). Those reports summarize annual counts of APS suspensions and hearings as a way of monitoring APS action trends. This report builds on those annual fact sheets by presenting the trends over a longer period and by displaying them in graphical form. Any changes showing in the overall trends indicate changes occurring somewhere within the APS system. For quality assurance purposes, it is important that the department monitor any such changes to be able to quickly identify and correct any deficiencies or problems that the trends might indicate. Left unchecked, such deficiencies could erode the deterrent impact of the laws.

### **Fiscal Year 2000/2001 Key Findings**

The following summarizes the key findings of this first annual report. In subsequent reports, this summary will appear at the beginning of the report.

#### **SECTION 1: TOTAL APS ACTIONS**

- While APS actions taken have generally paralleled DUI arrests, greater proportions of DUI arrests have resulted in APS actions being taken in the past three years (FY 98/99 through FY 00/01). In FY 99/00, the latest year for which data were available for this report, 94% of all DUI arrests resulted in an APS action.
- The proportion of repeat offenders among all DUI offenders receiving an APS action has consistently decreased each year since the APS law was introduced. In FY 00/01, only 25% of APS actions were for repeat DUI/APS offenders.
- The BAC test refusal rate has decreased every year since FY 91/92, with only 5.2% of all arrestees or detainees now refusing a BAC test.



- Zero tolerance APS actions have generally risen each year since their introduction in 1994, demonstrating a gradual implementation of the law by law enforcement officers. The recent slowing in an increasing trend over the last three years (FY 98/99 through FY 00/01) may indicate that enforcement of the law has reached greater parity with the incidence of violations under the zero tolerance law.
- Notably fewer commercial driver APS actions initiated by law enforcement are being upheld by the department in the past six years than were upheld in the first five years following the law's introduction. Figure 2g.2 shows that 12.2% of first offender commercial driver APS actions were set aside in FY 00/01 compared to only 4.7% in FY 90/91.
- The recent increase in commercial driver APS actions taken against drivers driving in commercial vehicles at the time of their arrest may be explained by an improvement in reporting; however, Figures 1e.3 and 1e.4 show that the number of such APS actions are still well below the total number of commercial-driver DUI arrests.

## **SECTION 2: TOTAL SET ASIDE APS ACTIONS**

- Set aside rates have fairly consistently increased over the course of time that the APS law has been in effect, with some indication of stability in the last four years (FY 97/98 through FY 00/01).

## **SECTION 3: APS HEARINGS**

- The number of actions stayed prior to a hearing have increased nearly 6-fold since FY 94/95.
- 19.4% of all APS actions were stayed in FY 00/01.
- The proportion of hearings resulting in a stay increased to nearly 90% of all APS hearings scheduled in FY 00/01.
- Since FY 95/96 there were roughly between 3,000 and 5,000 more stayed actions on record each year than there were stayed actions with a hearing scheduled.
- Each year proportionately more in-person hearings than telephone hearings result in a decision to set aside the APS action, with this difference increasing substantially in the last three years.
- The proportion of BAC test refusal actions resulting in a hearing has fairly steadily risen since FY 93/94 with nearly 30% of such actions now resulting in a hearing.

**SECTION 4: DEPARTMENTAL REVIEWS**

- The high sustain rate for APS departmental reviews in recent years (only 2.5% of reviews resulted in a set aside decision in FY 00/01), coupled with the small number of court challenges that result in a ruling to overturn the original hearing or departmental review decision (see Figure 6.9), may reflect improvements made within the APS process from the initial law enforcement contact through departmental review process.

**SECTION 5: DISMISSAL HEARINGS**

- The volume of renewed right to a hearing, or dismissal hearings rose in the first few years after their introduction in January 1994. They reached a high of 338 scheduled dismissal hearings in FY 96/97 followed by decreases and then stable volumes since FY 98/99.

**SECTION 6: APS ACTION COURT CHALLENGES**

- The majority of court challenges to APS actions were filed between 1991 and 1994, with fairly stable lower numbers of challenges filed each year thereafter. Throughout the course of the APS law, consistently less than one half of one percent of the actions initiated are challenged in court. Of those challenged, the majority (between 63% and 85%) of cases heard resulted in the action being upheld.

**SECTION 7: REGIONAL TRENDS FOR TOTAL APS ACTIONS**

- While there were differences that are noteworthy between the regions in the proportions of hearings held as telephone versus in-person hearings, and in hearing outcomes, none of these differences are as large as the difference in the number and outcomes of Driver Safety/Driver Investigation (Type 9) hearings.

**SECTION 8: REGIONAL TRENDS FOR ZERO TOLERANCE ACTIONS**

- As with other APS actions, following its introduction in 1994, the number and proportion of zero tolerance actions stayed prior to a hearing has fairly consistently increased over time across all DS regions.

**SECTION 9: DRIVER SAFETY/DRIVER INVESTIGATION (TYPE 9) APS ACTIONS**

- From their introduction in October 1996, use of the “Driver Safety/Driver Investigation” or “Type 9” hearings has been erratic and highly varied between Driver Safety Regions. Figures 8b.1 through 8b.5 show that Region 5/4, San Bernardino/Inland Region, reported conducting the vast majority of these actions over all years reported, with up to 27% of the total Region 4, Inland Region, APS

hearing workload reported as Type 9 hearings in FY 99/00 and 16% in the most recent year reported, FY 00/01. Region 1, Sacramento/Northern Region, and Region 6/5, San Diego/Southern Region, showed increasing use of these hearings each year of the reporting period, with up to 10% of their APS hearing workload reported as Type 9 hearings.

- There was a large increase reported in the number of APS Type 9 hearings handled by Headquarters in FY 00/01, with over 46% of their APS regular hearing workload (excluding departmental reviews and dismissal hearings) reported as Type 9 hearings.
- Table 9b.1 shows that, while there was considerable variation in how Type 9 hearings have been applied between the Driver Safety regions, with the exception of the San Bernardino/Inland Region, most of the regions appear to have used them most extensively to process zero tolerance hardship license restriction requests. This is evidenced by the large proportion of such cases being applied to zero tolerance actions in most regions. Table 9b.1 shows that Region 5 rarely used the Type 9 hearing allocation to update zero tolerance actions.
- A policy change issued in December 2000 should result in no more of these actions being updated for APS cases in future years.

#### **SECTION 10: TYPE OF BAC TESTS**

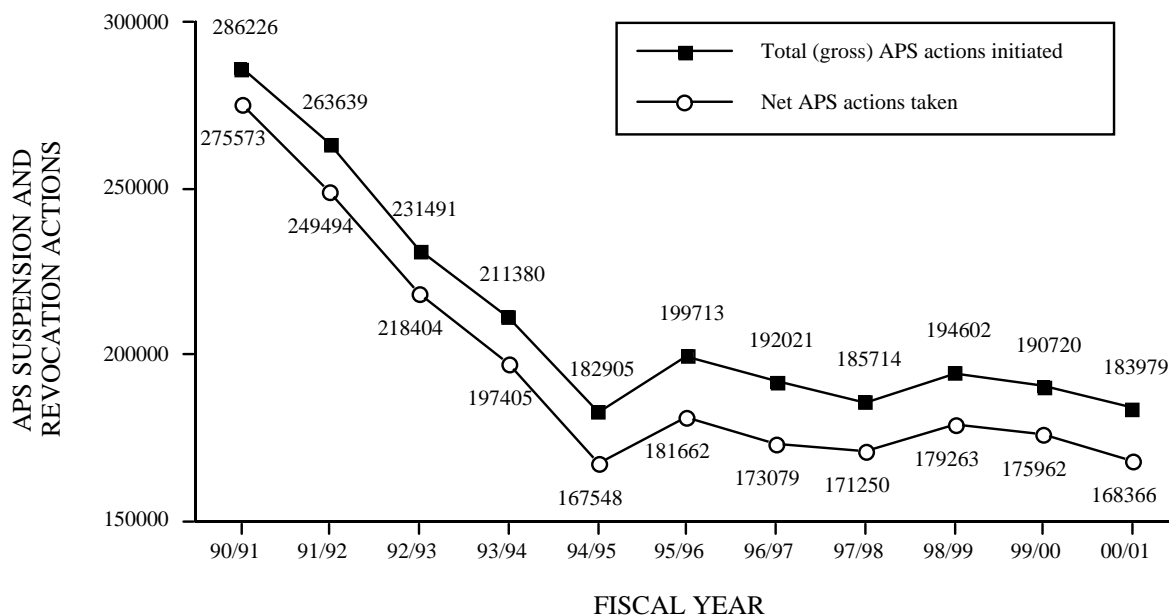
- Tables 10b.1 through 10b.3 show that reporting of county/court codes on the arrest subrecord have improved each year since the subrecord was introduced to the driver record in October 1997.
- In recent years, arresting agencies in several of the large Southern California counties (including Orange, Riverside, and San Bernardino) and Santa Clara County each perform significantly more blood tests than breath tests for arrested DUI offenders. Their blood to breath testing ratio is proportionately opposite the ratio in all other major counties throughout the state.

#### **SECTION 11: RESULTANT DUI OR DUI-RELATED COURT CONVICTIONS**

- The proportion of DUI offenders with an APS action set aside, but a DUI conviction on record, has decreased each year since FY 95/96. In FY 95/96, just over 19% of drivers with an APS set aside were convicted of VC § 23152(b) or VC § 23153(b), but that percentage has dropped to just under 10% of APS set asides in FY 98/99, the latest year for which conviction data is most complete at this writing.

## **SECTION 1: TOTAL APS ACTIONS**

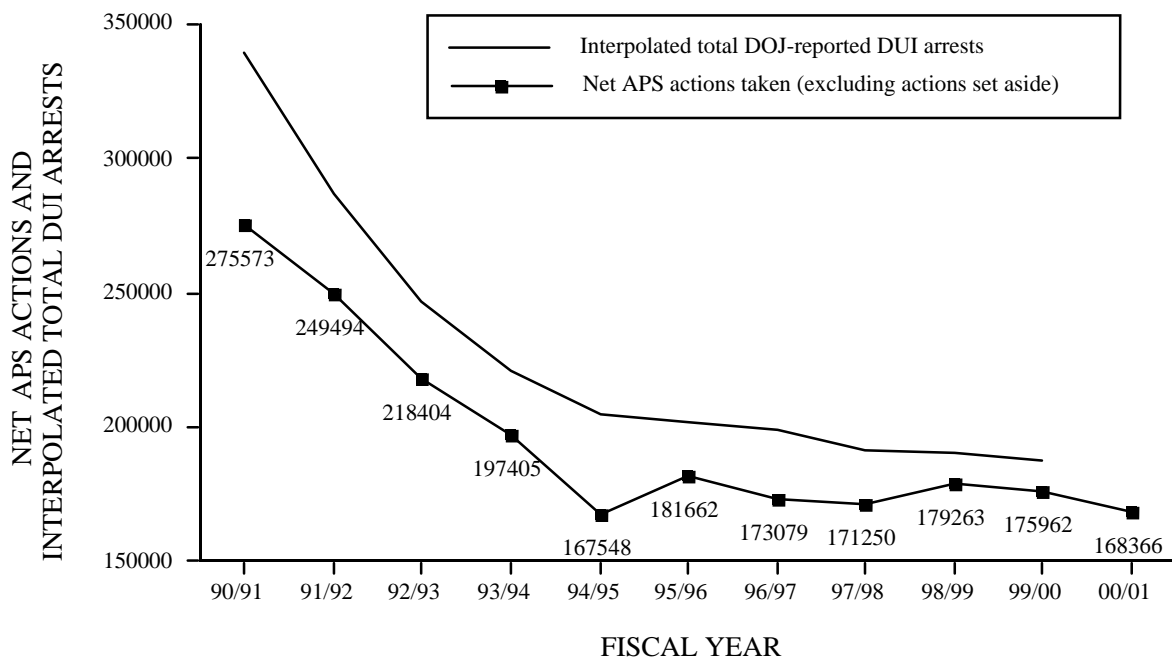
### **Section 1a: Total and Net APS Actions Relative to Arrests**



**Figure 1a.1.** Total (gross) APS suspension and revocation actions initiated by year including those later set aside, and net total APS suspension and revocation actions taken by year excluding those eventually set aside, FY 90/91 through FY 00/01.

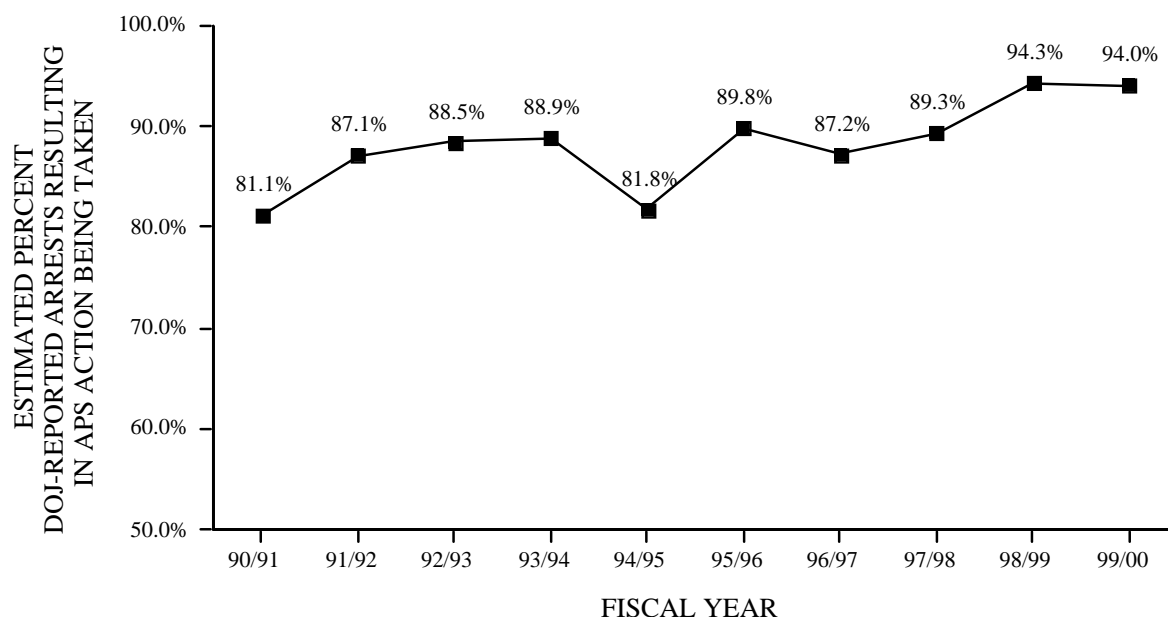
- The APS totals plotted here include actions initiated following a DUI arrest, or detention of drivers under age 21 who were not arrested but who were detained for having a BAC of 0.01% or more under the zero tolerance law (VC § 23136), and implied consent BAC-test refusal actions taken in accordance with either VC§ 23136 or VC § 13353.
- The gross totals include actions that were eventually vacated or set aside by the department or by order of the court.
- The net totals exclude actions that were vacated or set aside by the department or by order of the court. The net totals provide a measure of the number of actions that actually result in the administrative sanction.

- Figure 1a.1 shows that, in FY 00/01, gross initiated APS actions had decreased by 35.7% from the gross totals in the first year of the law. This drop in total APS actions roughly parallels the decline of approximately 39.1% in total DUI arrests, and the 43.0% drop in alcohol-related fatal and injury collisions reported by CHP, for the same time period.
- In FY 00/01, net APS actions had decreased by 38.9% from what they were in the first year of the law.



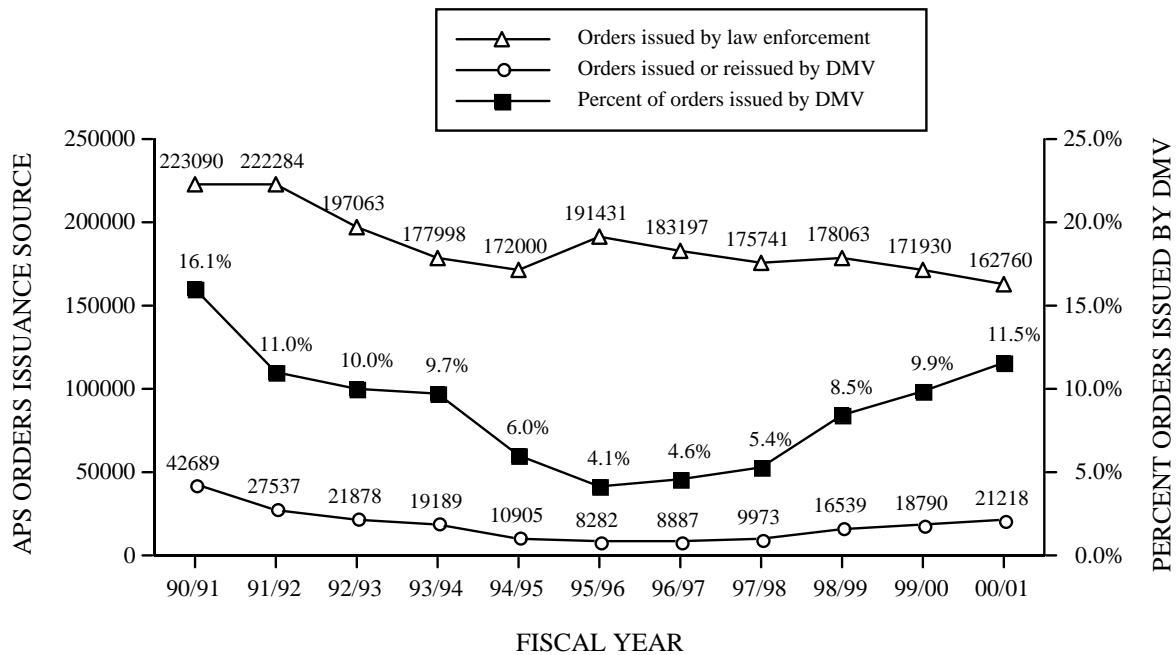
**Figure 1a.2.** Net APS actions compared to interpolated FY DUI arrest totals, FY 90/91 through FY 00/01.

- The difference between these two trend lines provides a visual reference for the difference between the number of DUI arrests, and resulting APS actions, for any given year. It indicates that, in recent years, more of the total arrests are resulting in an APS action. The DUI arrest figures were interpolated from calendar-year totals obtained from the most recent annual DMV DUI MIS report, (Tashima & Helander, 2002).



**Figure 1a.3.** Estimated percent of total DUI arrests resulting in an APS action, FY 90/91 through FY 99/00.

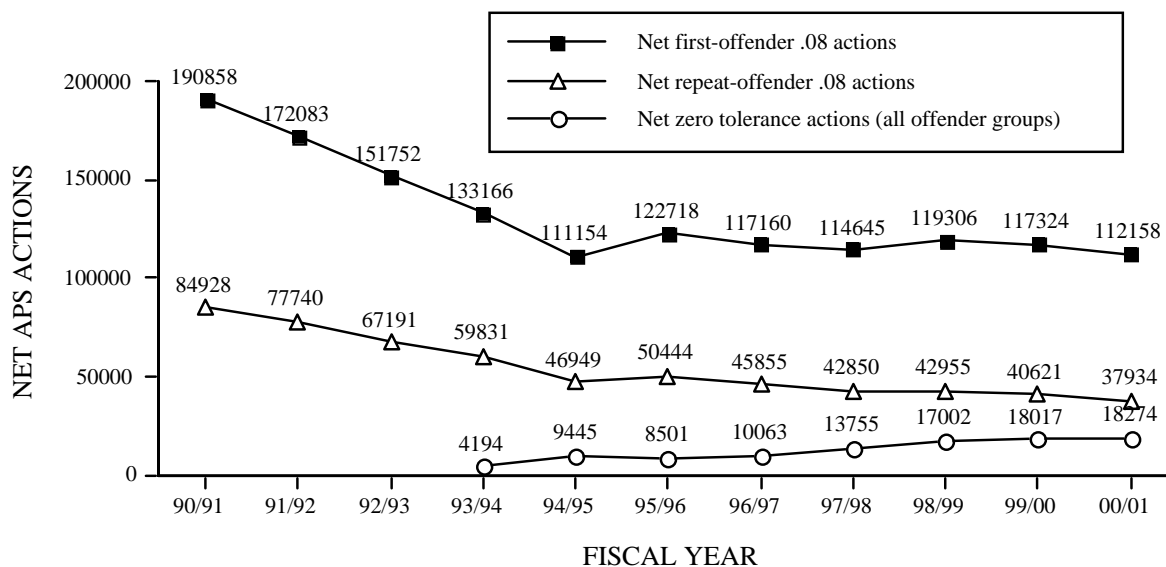
- Figure 1a.3 shows that, after taking APS action set asides into consideration, an estimated 81% to 94% of total DUI arrests annually have resulted in an administrative license action being imposed upon the arrestees' driving privilege.
- Figures 1a.2 and 1a.3 should only be considered estimates since the APS data includes some actions taken against drivers under the age of 21 who were not actually arrested for DUI but were only detained under the state's zero tolerance law. Under California law, drivers under age 21 are subject to arrest and criminal DUI statutes if their BAC level is .05% or greater, or if they appear to be intoxicated. Most of the youthful offenders apprehended are subject to arrest since the average annual BAC for such drivers has ranged between .10% and .13%, substantially higher than the .05% required to place the offender under arrest.



**Figure 1a.4.** APS suspension orders issued, by source of issuance, and percentage of orders issued or reissued by DMV.

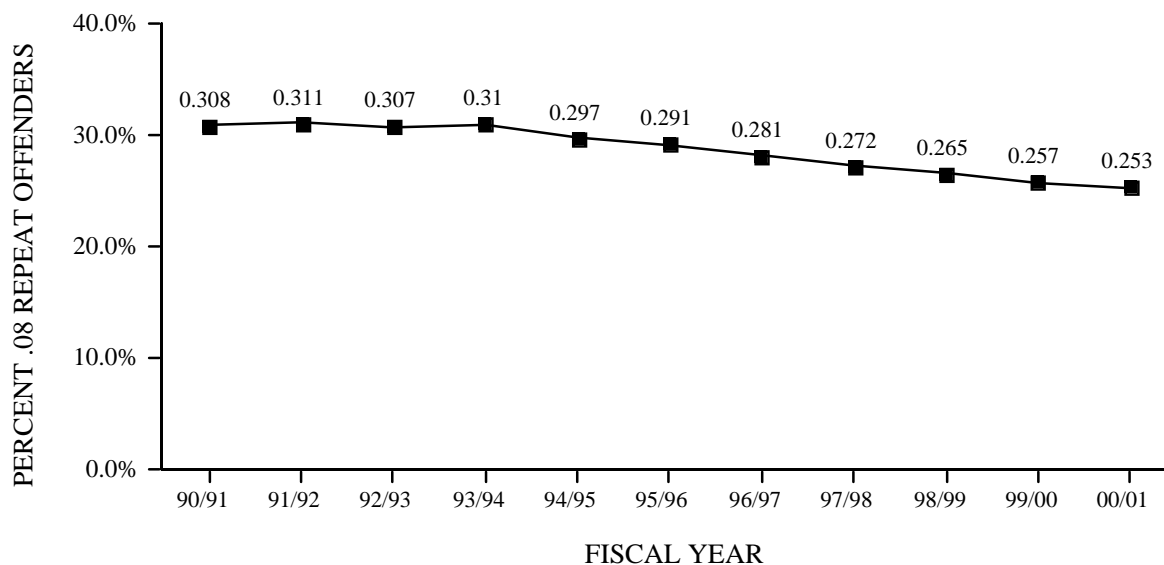
- APS orders of suspension or revocation are mailed by the department (in place of, or in addition to, those issued by law enforcement) when corrections are made to the original order or when there is no record that an original order was issued.
- The percentage of these orders mailed by DMV indicates the extent to which law enforcement fails to properly issue the orders. This percentage has risen steadily over the last several years. This may indicate the need to provide outreach information to law enforcement for corrective action.

## Section 1b: APS Actions taken by Offender Status



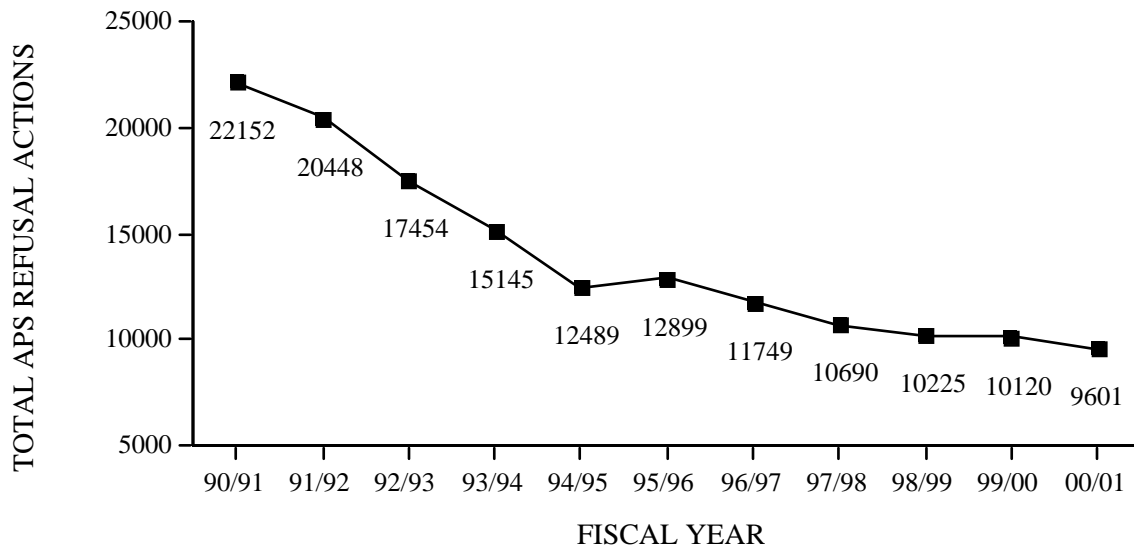
Note. The "zero tolerance" law was introduced January 1, 1994.

**Figure 1b.1.** Net APS actions taken (excluding actions later set aside) by offender status (first .08/DUI offense, repeat .08/DUI offense, and zero tolerance offenders of any offender status), FY 90/91 through FY 00/01.

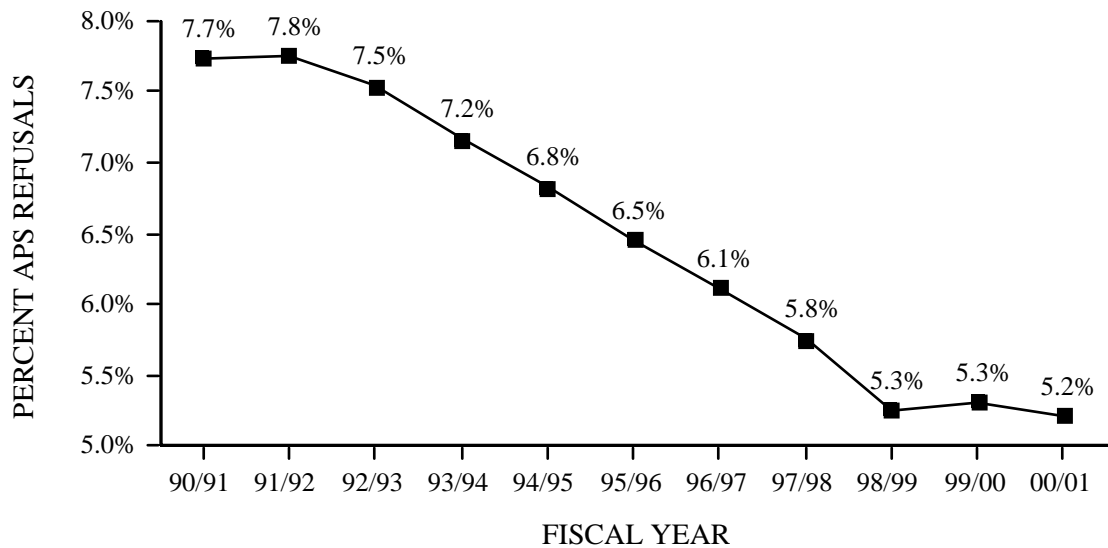


**Figure 1b.2.** Percent repeat offenders among total APS actions, FY 90/91 through FY 00/01.



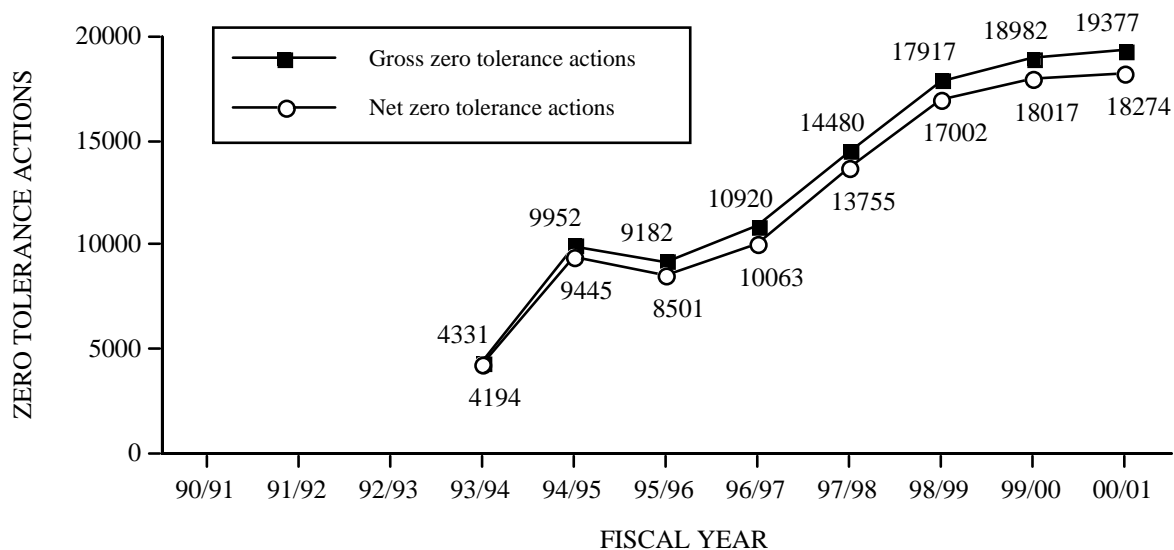
**Section 1c: BAC test-refusal actions**

**Figure 1c.1.** Total APS arrestees or detainees who refused a BAC test, FY 90/91 through FY 00/01.



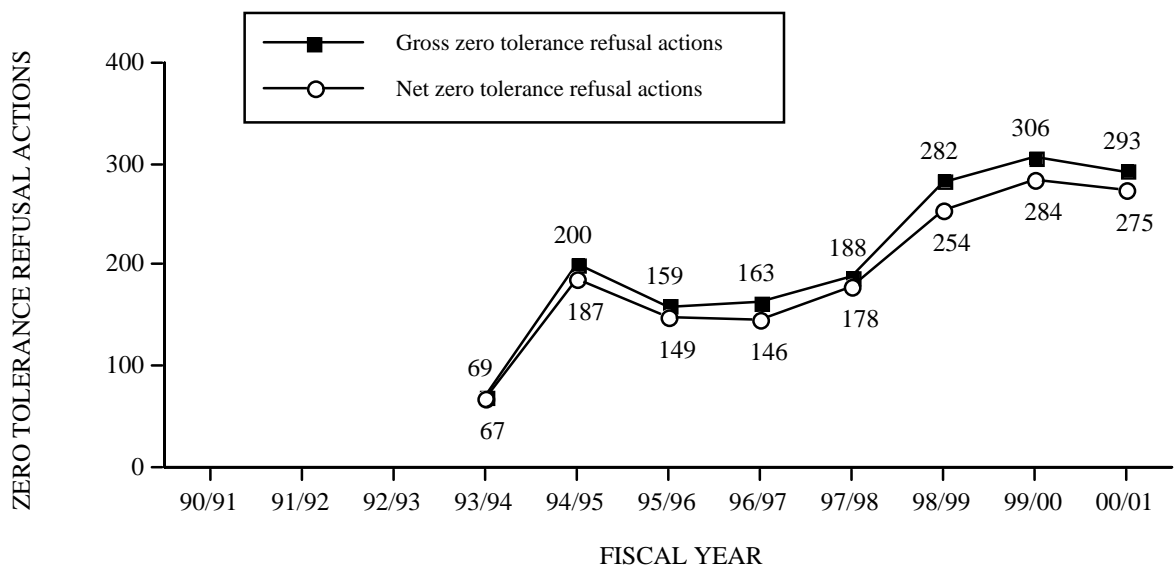
**Figure 1c.2.** Percent of APS arrestees or detainees who refused a BAC test, FY 90/91 through FY 00/01.

### Section 1d: Under Age 21 "Zero Tolerance" Actions



Note. The "zero tolerance" law was introduced January 1, 1994.

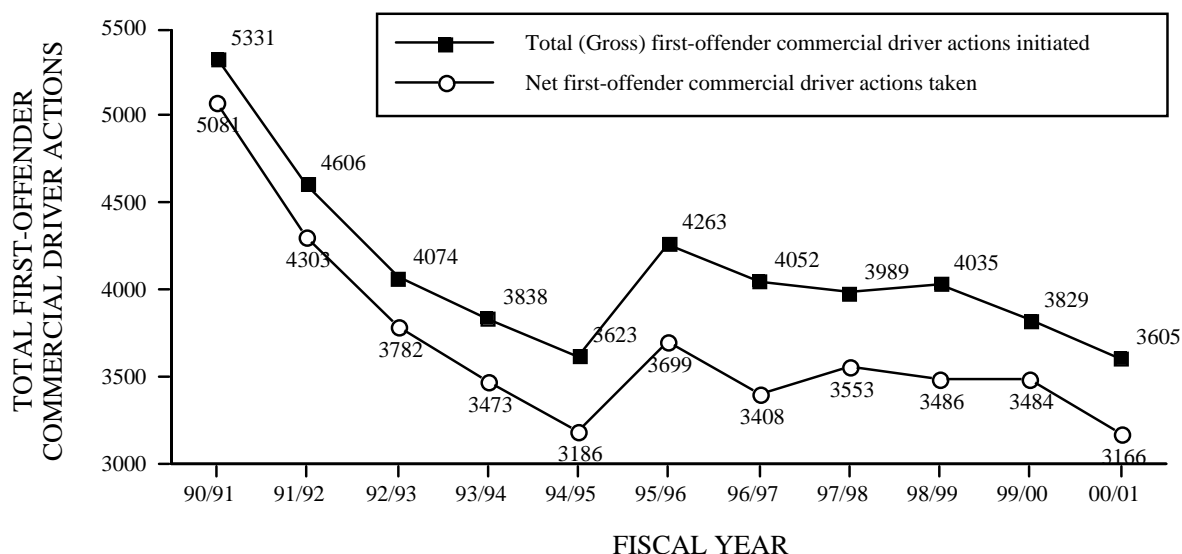
**Figure 1d.1.** Total (gross) zero tolerance actions initiated, and net total zero tolerance actions taken (excluding set asides), FY 93/94 through FY 00/01.



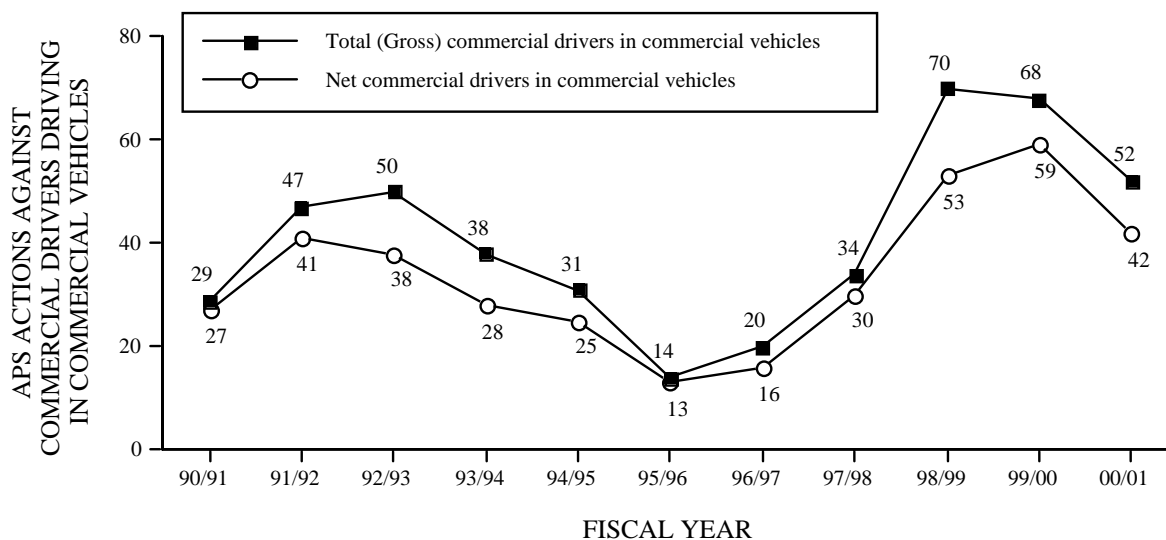
Note. The "zero tolerance" law was introduced January 1, 1994.

**Figure 1d.2.** Gross and net total zero tolerance refusal actions, FY 93/94 through FY 00/01.

## Section 1e: Commercial Driver Actions

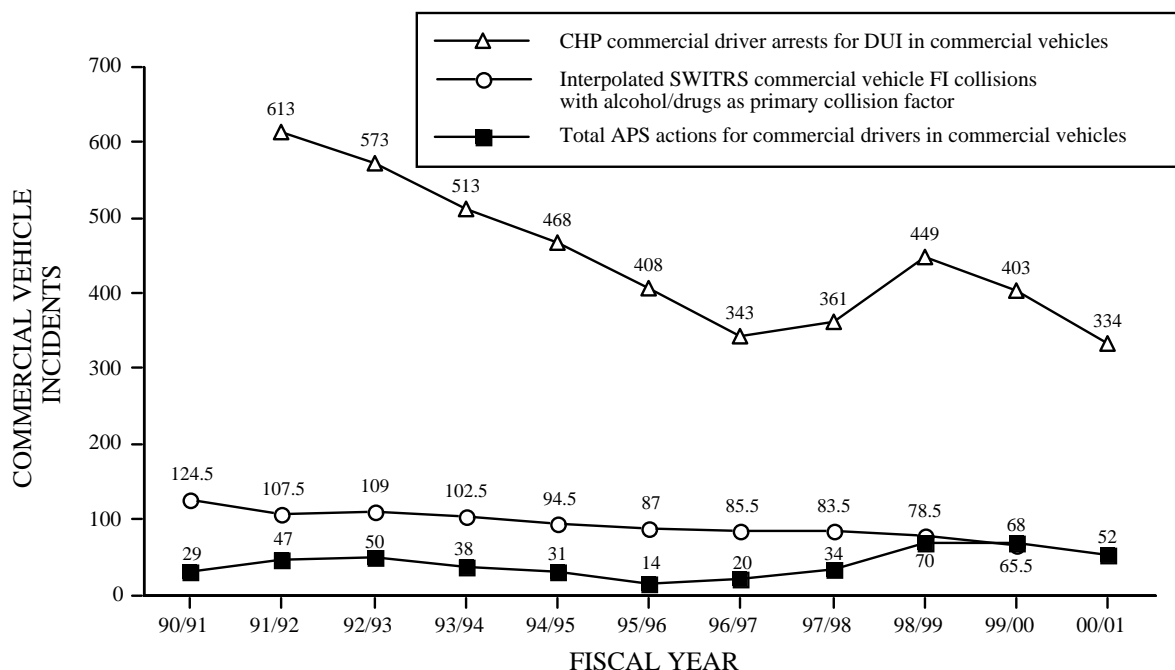


**Figure 1e.1.** Total (gross) first APS actions initiated against commercially licensed drivers and net actions (excluding actions set aside), FY 90/91 through FY 00/01. To prevent undue hardship, a commercially licensed driver arrested for DUI in a noncommercial vehicle, and having no prior DUI convictions or APS actions, is automatically granted a restricted license allowing driving to, from, and during the course of employment following a 30-day “hard” suspension period.

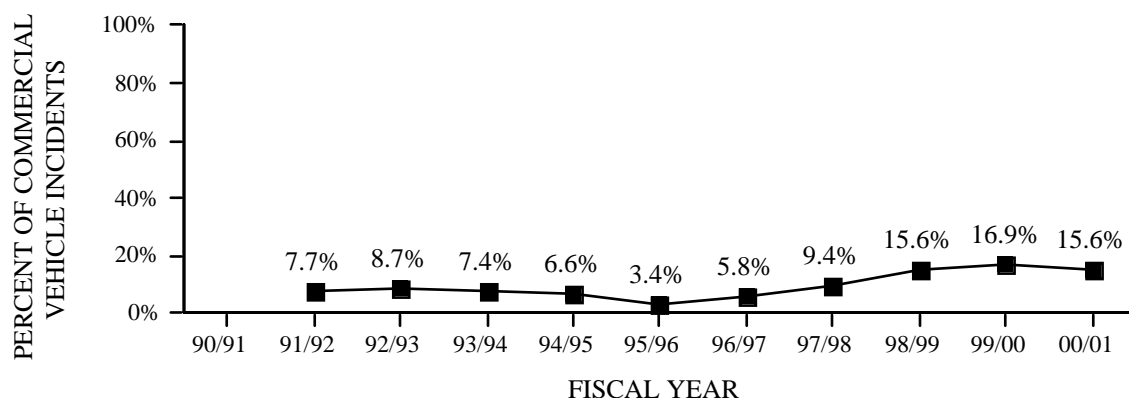


**Figure 1e.2.** Gross APS actions initiated against commercial drivers driving in a commercial vehicle at the time of the DUI arrest and net actions (excluding actions set aside), FY 90/91 through FY 00/01.

- The difference between the gross number of APS actions initiated against commercial drivers driving in commercial vehicles at the time of the DUI arrest, and the net total actions ultimately taken, is the number of such actions set aside. All of these numbers, including the gross number initiated, are quite small, contributing to the appearance of large fluctuations in the trends.



**Figure 1e.3.** Total APS actions initiated for commercial drivers driving in a commercial vehicle at the time of a DUI arrest, interpolated (estimated) total fatal and injury (FI) collisions where commercial drivers were at fault and driving under the influence of alcohol and/or drugs was the primary collision factor, and CHP initiated arrests for DUI in a commercial vehicle, FY 90/91 through FY 00/01.



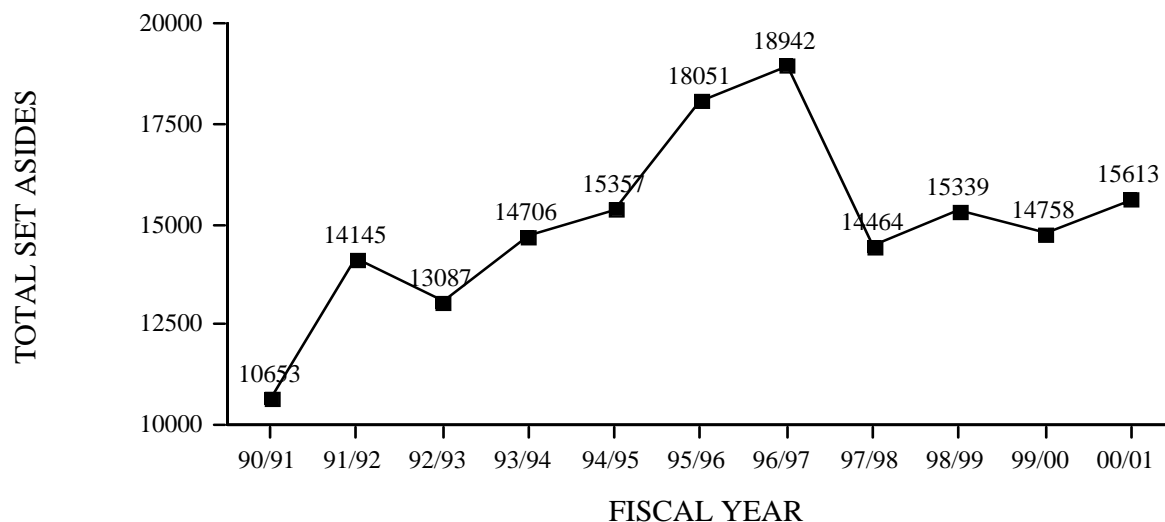
**Figure 1e.4.** Percentage of CHP initiated DUI arrests of drivers who were driving a commercial vehicle that also resulted in a commercial-driver/commercial-vehicle designated APS action, FY 91/92 through FY 00/01.

- The CHP collision data were obtained by calendar year, and the most recent data at the time of this report were for collisions occurring during 2000. Consequently, the fiscal year collision figures used in compiling Figure 1e.3 were interpolated (or estimated) by averaging the two relevant calendar years for each fiscal year, and could only be estimated through FY 99/00. Figure 1e.3 shows that in recent years a greater proportion of the commercial-vehicle FI collisions likely resulted in proper commercial-vehicle designation associated with the APS action. However, while higher in the last three years, the low percentages of CHP DUI arrests that resulted in an APS commercial-vehicle action shown in Figure 1e.4 suggest that not all eligible actions are properly identified on the driver record relative to the number of actual incidents.
- The relationship between commercial vehicle DUI incidents and commercial-driver/commercial-vehicle APS actions is not perfect for two reasons, 1) since some of the commercial vehicle DUI incidents may have involved only drugs other than alcohol, or alcohol levels lower than the APS .08% limit, (the per se limit for criminal prosecution of commercial vehicle DUI is only .04% BAC), 2) not all commercial driver/commercial-vehicle DUI arrests are made by the CHP. However, only volumes of CHP-initiated arrests are available for this designation. Nonetheless, Figures 1e.3 and 1e.4 show that, while there are relatively few commercial-vehicle DUI-related incidents each year in California, there were, during the first years following implementation of the APS laws particularly, proportionately very few APS actions against such drivers that were handled as commercial vehicle "COMVEH" APS actions. This may result from some arresting officers, particularly early on, failing to properly indicate on the DS 367 that the driver was in a commercial vehicle at the time of arrest, or it may indicate failure on the part of the department to properly update the actions as COMVEH incidents. In either event, beginning in FY 98/99, the proportion of APS actions characterized as COMVEH incidents has been higher (albeit only 15.6% to 16.9% designated COMVEH), than it was in any of the prior years. Proper identification of the APS suspension as having originated from an incident occurring in a commercial vehicle is important since under the provisions of VC 15302 and 15303, a subsequent conviction for driving a commercial vehicle while suspended when the originating offense took place while driving a commercial vehicle, can lead to a 1-year suspension or a lifetime revocation of the commercial driving privilege.

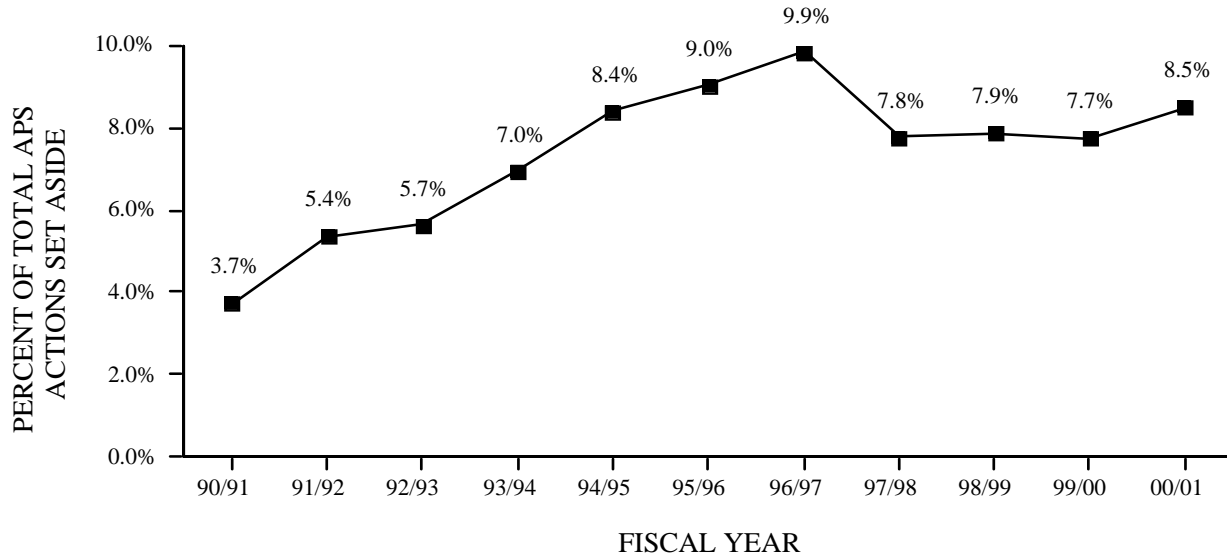
## **SECTION 2: TOTAL SET ASIDE APS ACTIONS**

- The set aside totals and percentages shown in the following seven figures (Figures 2a.1 through 2d.1) include APS actions set aside by any means. That is, they include those set aside during administrative review, as a result of a hearing decision or departmental review, or following a court decision requiring the action be set aside.

### **Section 2a: Statewide Set Aside Actions**

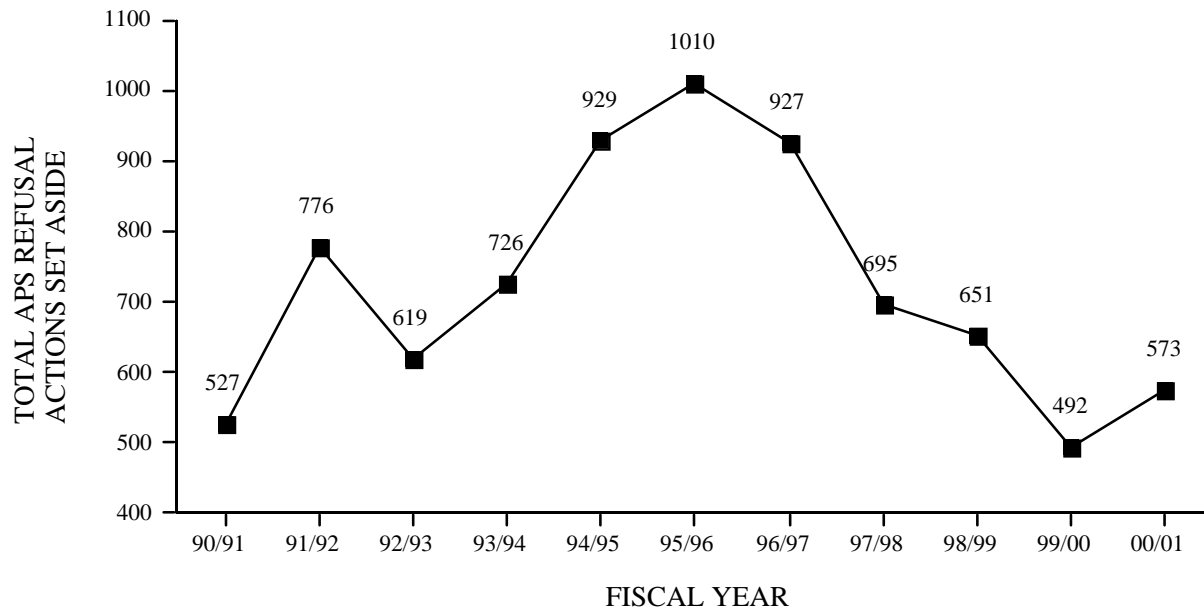


**Figure 2a.1.** Total APS actions set aside during any stage of the APS process, FY 90/91 through FY 00/01.

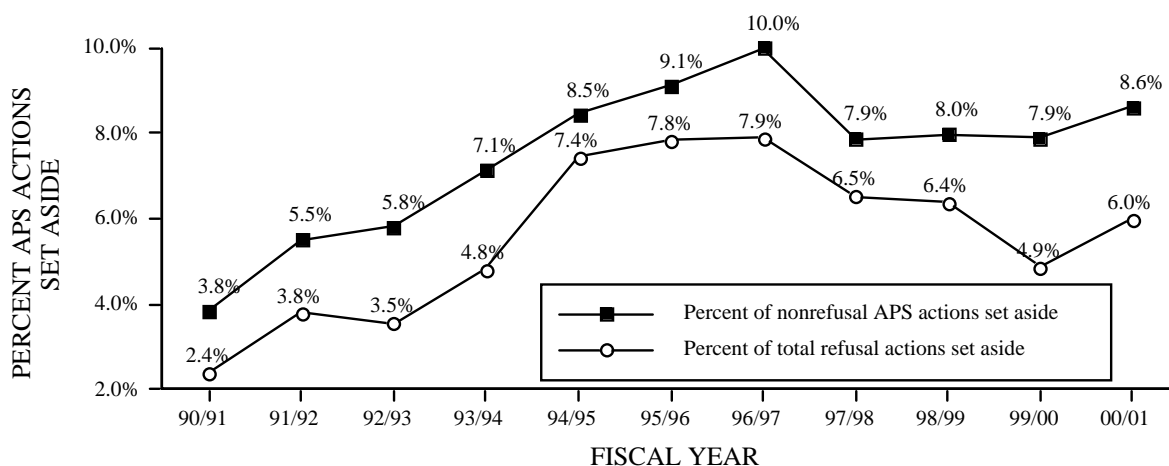


**Figure 2a.2.** Percentage of total APS actions set aside during any stage of the APS process, FY 90/91 through FY 00/01.

## Section 2b: Implied Consent (Refusal)/Zero Tolerance Refusal Actions Set Aside.



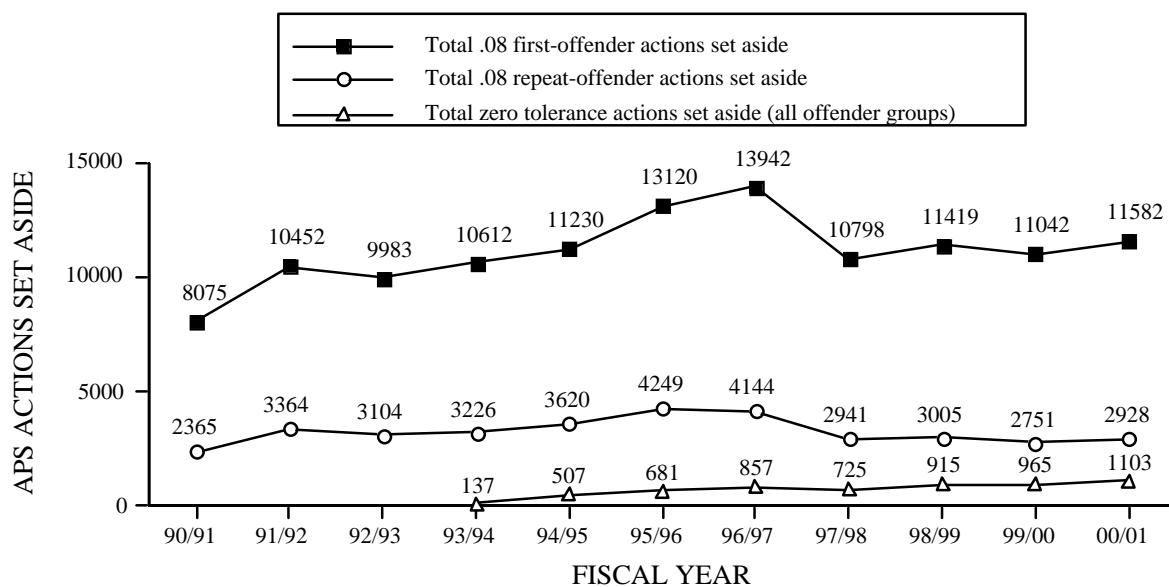
**Figure 2b.1.** Total APS implied consent refusal actions set aside during any stage of the APS process, FY 90/91 through FY 00/01. Includes zero tolerance refusal action set asides.



**Figure 2b.2.** Percentage of non-refusal APS set aside actions compared with the percentage of APS refusal actions set aside, FY 90/91 through FY 00/01.

- Figure 2b.2 shows that proportionately fewer refusal actions have been set aside each year than non-refusal BAC-tested actions.

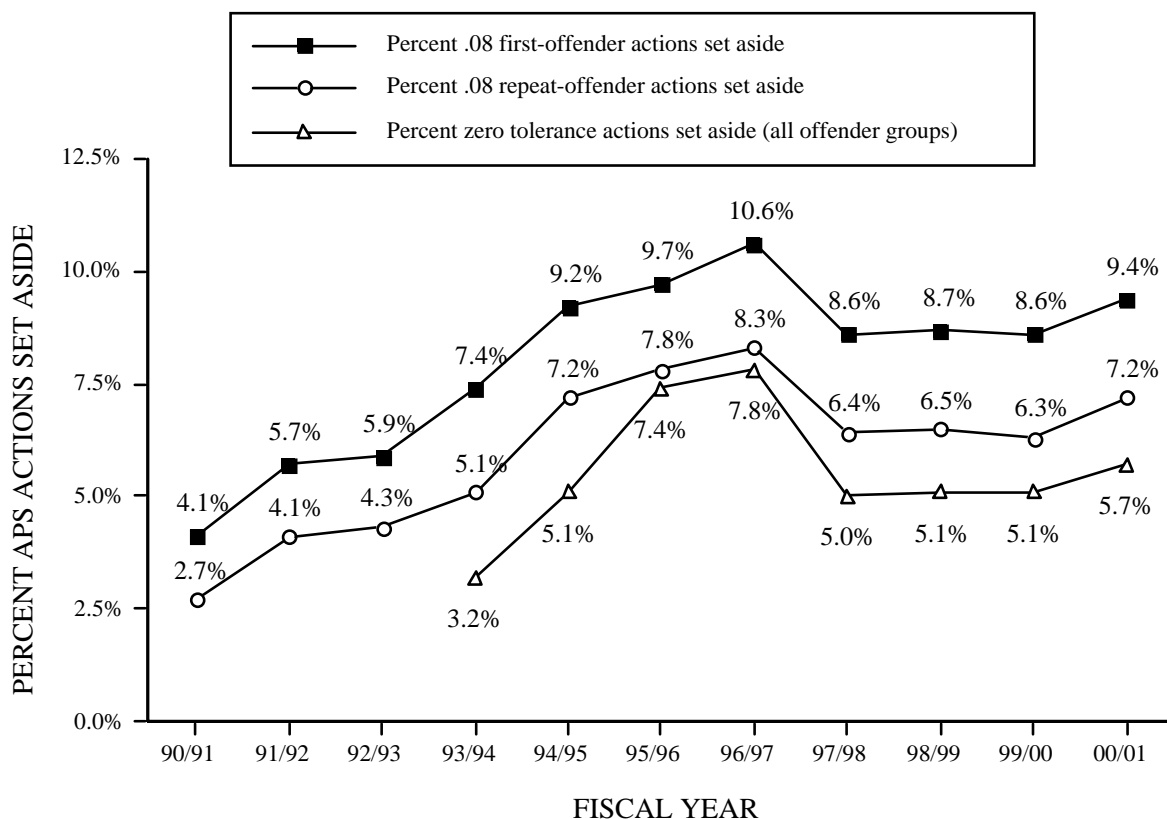
### Section 2c: Actions Set Aside by Offender Status



Note. The "zero tolerance" law was introduced January 1, 1994.

**Figure 2c.1.** APS actions set aside by offender status (first .08/DUI offense, repeat .08/DUI offense, and zero tolerance offenders of any offender status), FY 90/91 through FY 00/01.



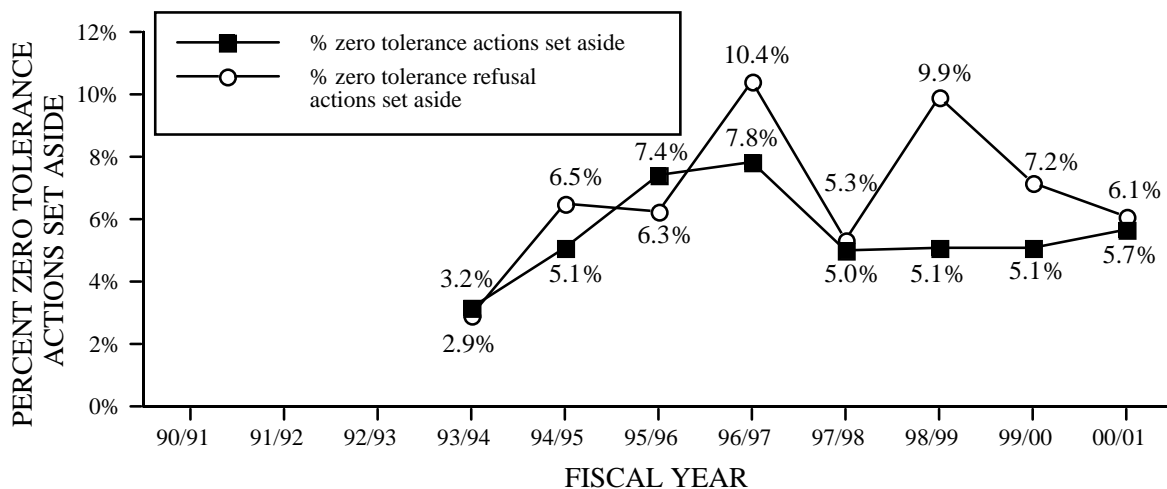


Note. The “zero tolerance” law was introduced January 1, 1994.

**Figure 2c.2.** Percentage of APS actions set aside by offender status (first .08/DUI offense, repeat .08/DUI offense, and zero tolerance offenders of any offender status), FY 90/91 through FY 00/01.

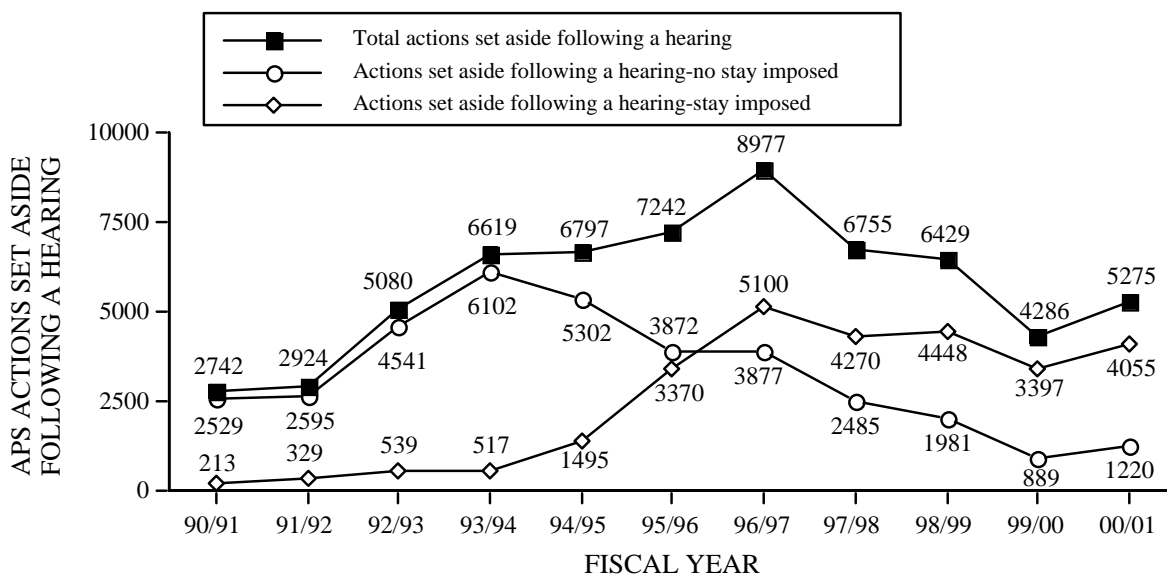
- While DUI arrests and their accompanying APS actions have decreased fairly consistently each year, reflecting a level of overall traffic safety improvement, Figure 2c.2 shows there was a persistent upward trend in the proportion of APS actions that the department set aside between FY 90/91 and FY 96/97. This was followed by a drop of 23.6% in the percentage of actions set aside in FY 97/98. For the next two years, the percentage set aside remained fairly stable but then increased by 10.4% in FY 00/01.

## Section 2d: Zero Tolerance Action Set Asides



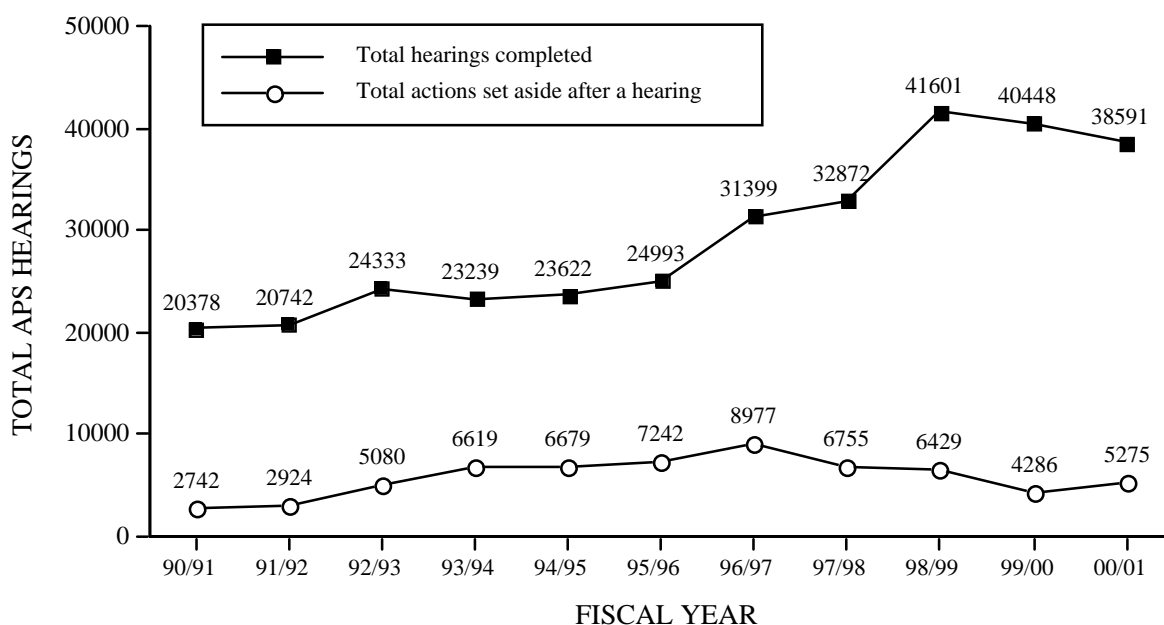
**Figure 2d.1.** Percentage of zero tolerance actions or under-age-21-refusal actions set aside, FY 93/94 through FY 00/01.

## Section 2e: Actions Set Aside Following a Hearing



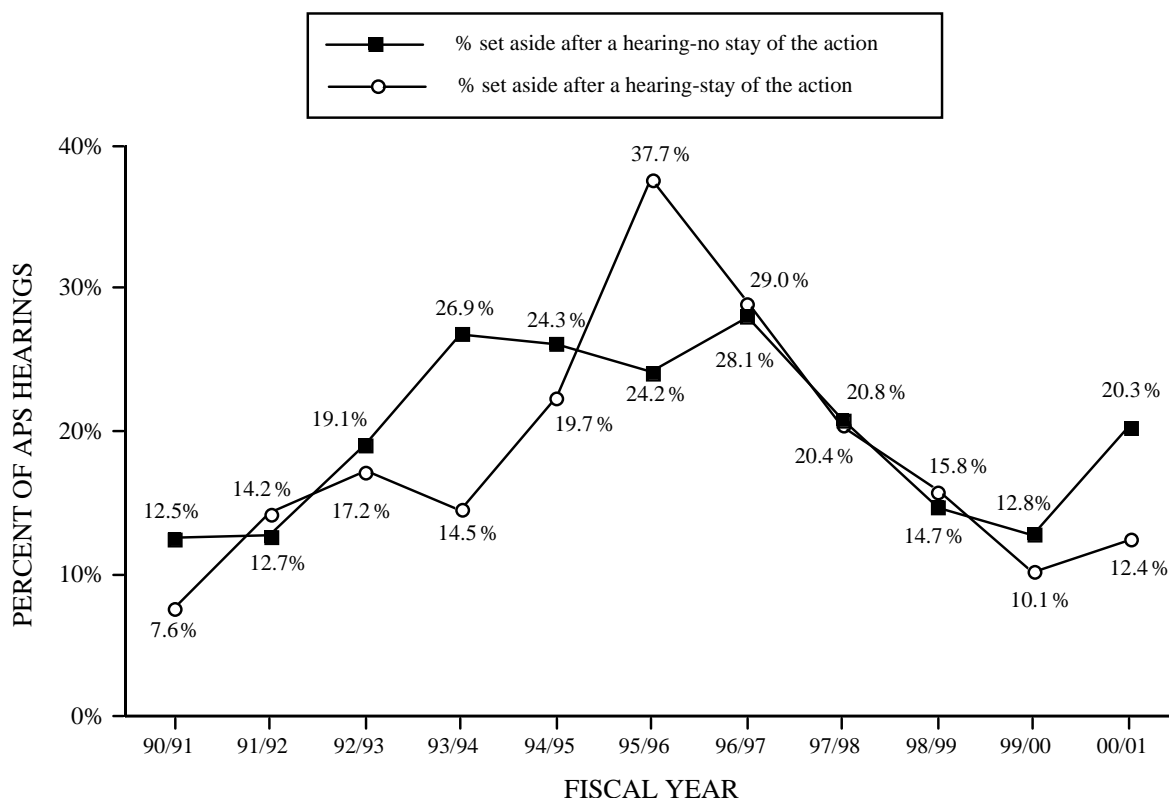
**Figure 2e.1.** Total APS actions set aside following a hearing. Stayed and nonstayed actions presented separately and combined as total, FY 90/91 through FY 00/01.

- Hearing figures were included in these plots only if they were for actual hearing requests. The figures include default hearings where the respondent failed to appear but the hearing was held anyway. These figures exclude cases that were designated as “Driver Safety/Driver Investigation” hearings since this coding on the driver record is ostensibly used to indicate an administrative paper review of the case and does not necessarily indicate that an actual hearing was ever requested or scheduled. Total “Driver Safety/Driver Investigation” hearings are displayed in Figure 9a.1 below.
- Figure 2e.1 reveals that set asides following a hearing have dropped over 40% since their high of 8,977 in FY 96/97.
- Of actions set aside subsequent to a hearing, the number of actions set aside subsequent to a stay of the action is substantially greater than the total number set aside when no stay was granted. This trend is explained by the fact that the proportion of total hearings resulting in a stay of the action pending the hearing outcome have steadily increased each year, as shown in Figure 3a.2 below.



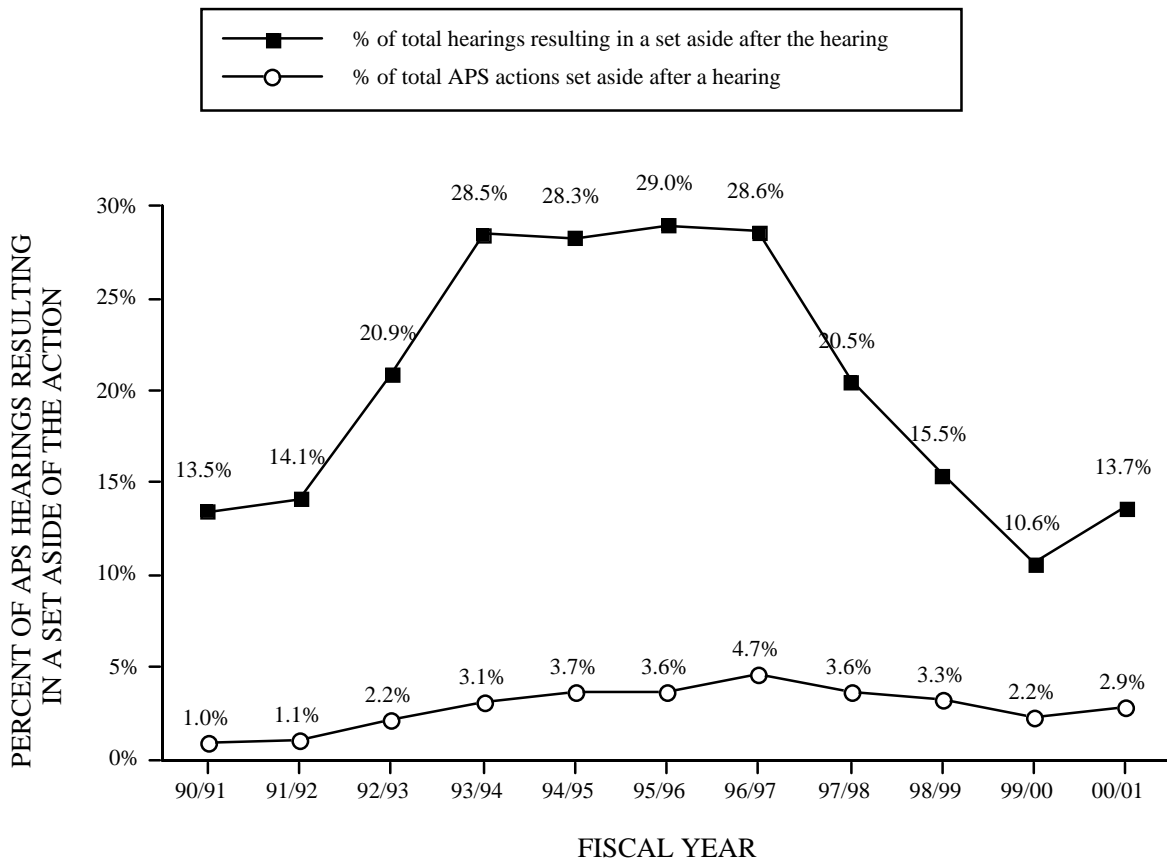
**Figure 2e.2.** Total APS actions set aside subsequent to a hearing and total APS hearings completed, FY 90/91 through FY 00/01.

- Hearing figures were included in this plot only if they were for actual hearing requests, and may have been for hearings that were canceled by the department prior to the hearing being held. Also, as before, figures exclude cases that were designated as “Driver Safety/Driver Investigation” hearings.
- Figure 2e.2 shows that the generally increasing trend in set asides subsequent to a hearing reversed in FY 97/98, when set asides decreased and continued to decline each year until FY 00/01, when they increased again by 23.1% from FY 99/00.
- The values in Figure 2e.2 were obtained by summing the number of hearings completed each year for stayed and nonstayed actions. The proportions of total stayed and nonstayed APS actions that are set aside following a hearing decision are presented separately in Figure 2e.3, below.

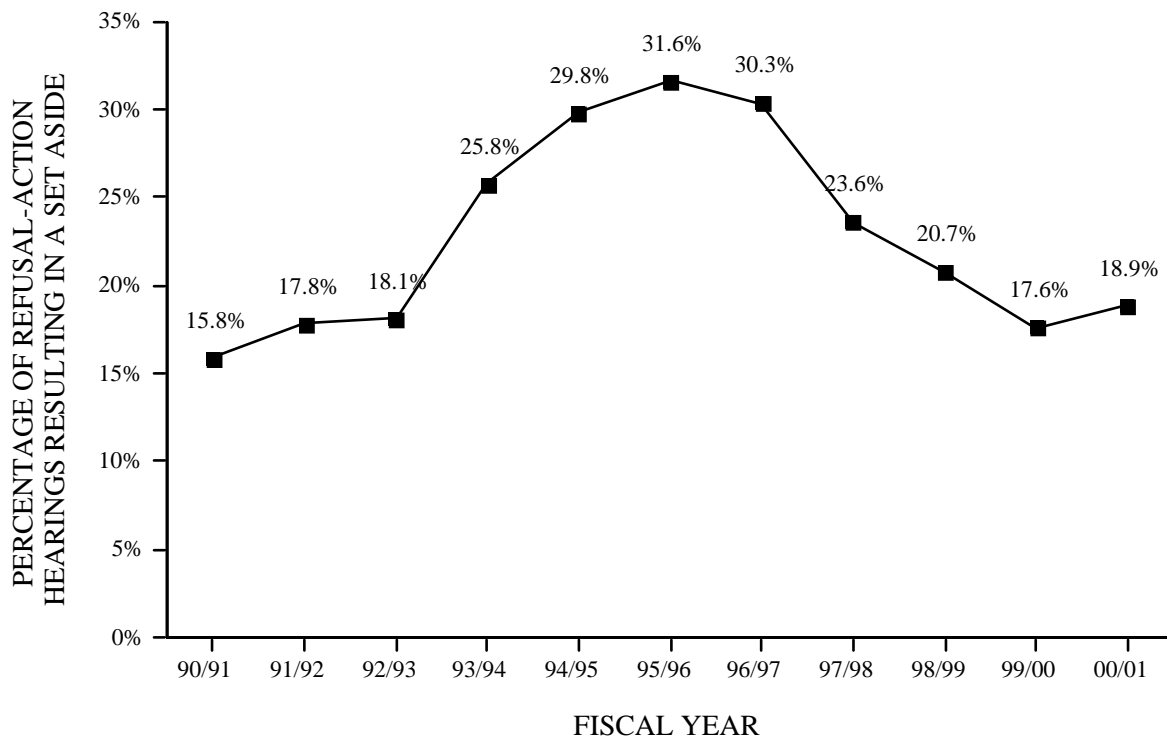


**Figure 2e.3.** Percentage of stayed and nonstayed APS actions that are set aside subsequent to a completed hearing, FY 90/91 through FY 00/01.

- Between FY 96/97 and FY 99/00 there was little difference in the percentage of set asides subsequent to hearings held for actions stayed versus actions not stayed. However, in FY 00/01, there was a 58.6% increase in the number of actions set aside following hearings held for actions that were not stayed while set asides among stayed cases were fairly unchanged.
- More detailed elucidation of stayed and non-stayed cases can be found below in Section 3.



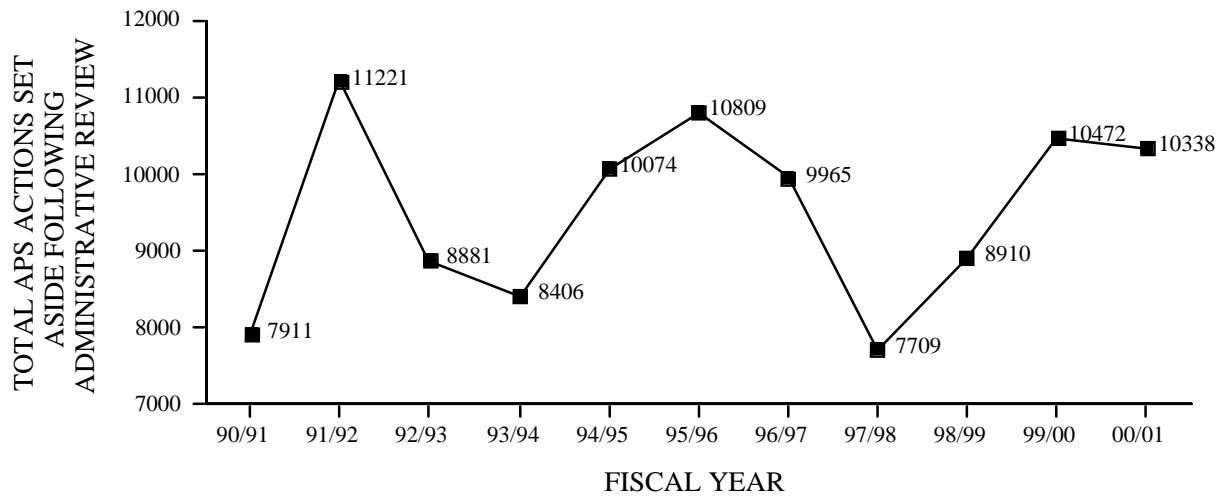
**Figure 2e.4.** Percentage of total APS hearings that result in a set aside and percentage of total actions that are set aside subsequent to a completed hearing, FY 90/91 through FY 00/01.



**Figure 2e.5.** Set aside rate for implied consent (refusal) hearings held, FY 90/91 through FY 00/01.

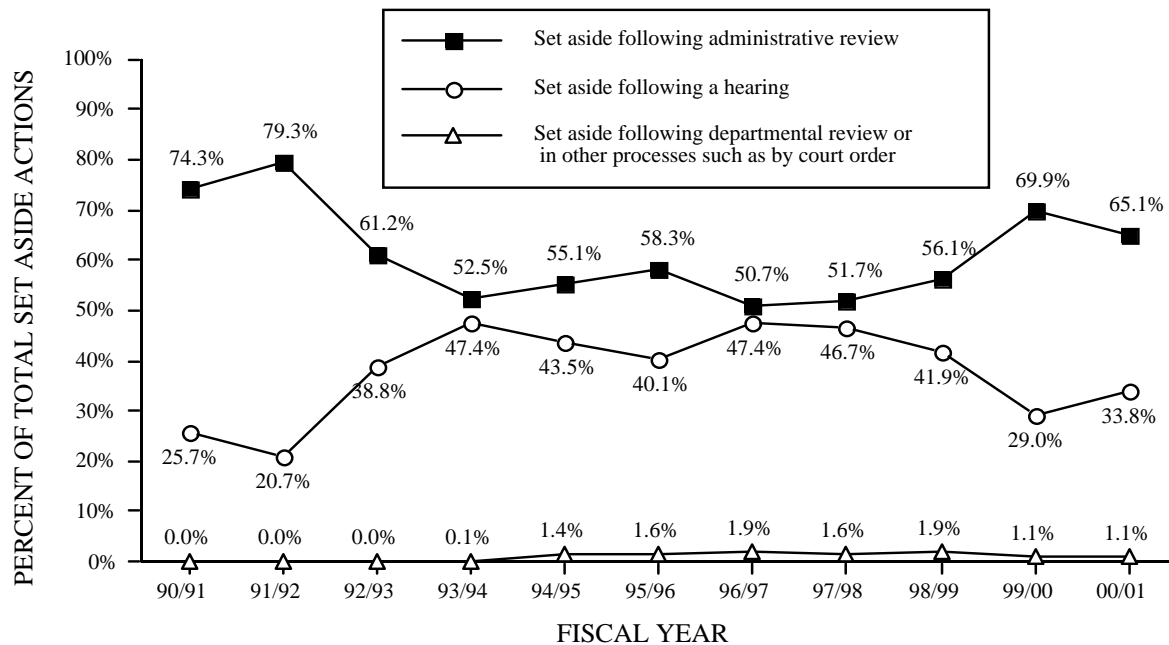
- The set aside rate in FY 00/01 for refusal actions following a hearing is more consistent with the rates of the first few years following the introduction of the current, longer, suspension/revocation lengths, (July 7, 1990) but is up 7.4% from the prior year.
- Recall that, while the APS statutory scheme was implemented July 1, 1990, the basic implied consent law requiring the department to impose an administrative license action against drivers refusing or failing to complete such a test actually dates back to October 6, 1966, when VC section 13353 was introduced.

## Section 2f: Actions Set Aside Following a Non-Hearing Process



**Figure 2f.1.** Total APS actions set aside following administrative review (no hearing requested), FY 90/91 through FY 00/01.

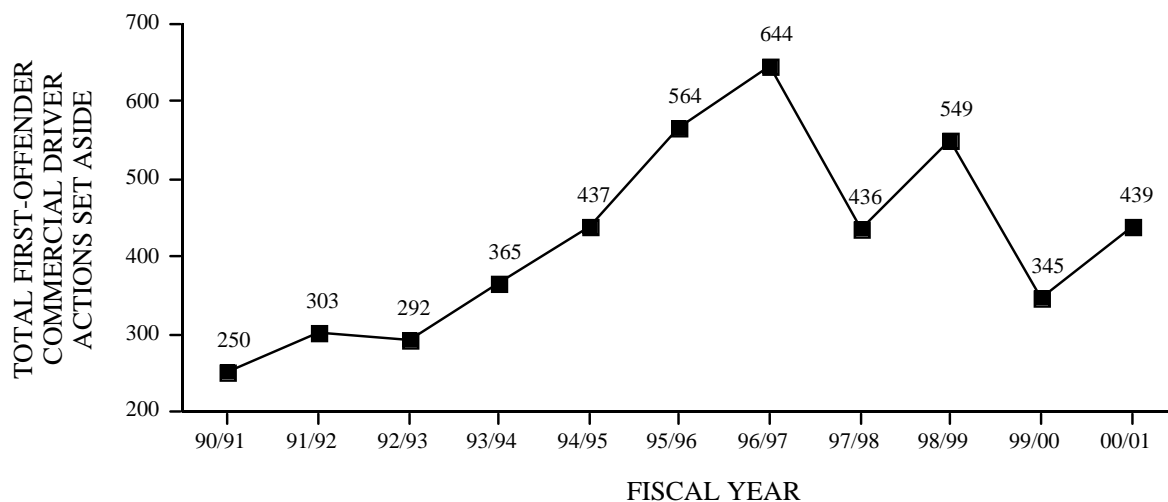
- Figure 2f.1 shows that set asides following an administrative review alone, with no associated hearing request, dropped 1.3% in FY 00/01, reversing the upward trend that began in FY 97/98, although the numbers remain relatively large.



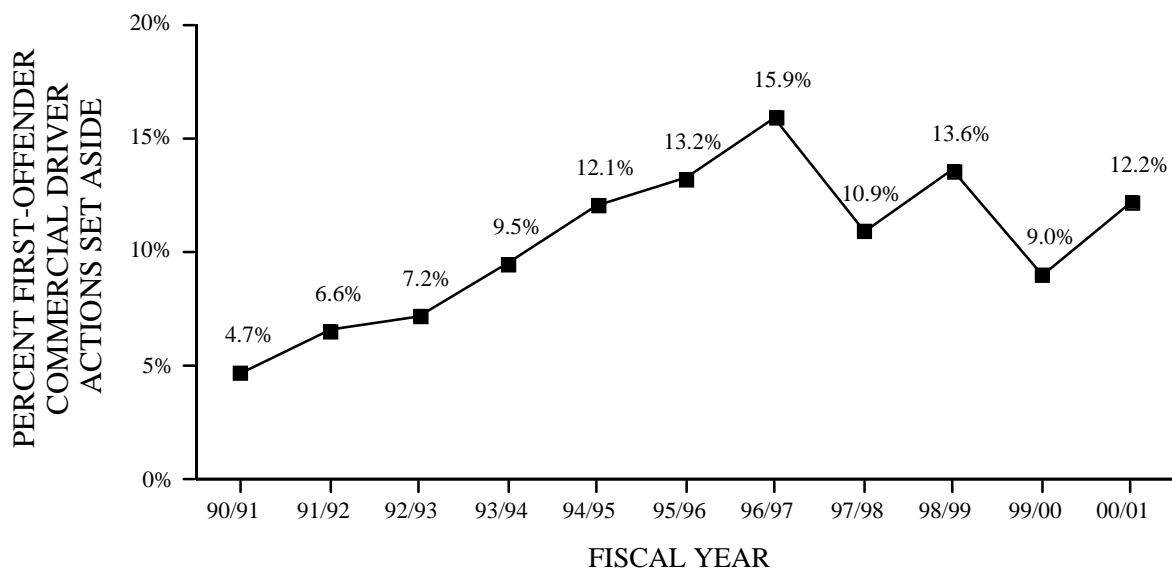
**Figure 2f.2.** Administrative processes immediately preceding set aside, by percent of total set asides, FY 90/91 through FY 00/01. Each year's entries should sum to 100%. To the extent that they don't is due to rounding error.

- Figure 2f.2 demonstrates that the majority of APS action set asides occur during the administrative review process.

## Section 2g: Set Aside Commercial Driver Actions

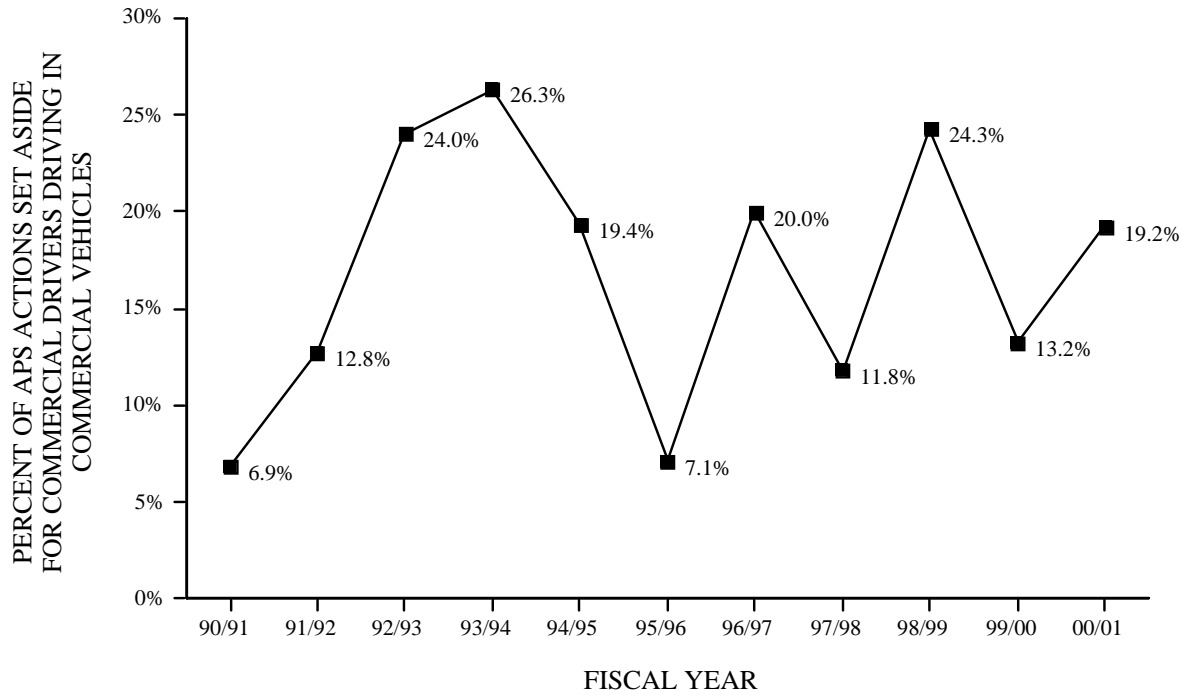


**Figure 2g.1.** Total first-offender commercial driver actions set aside, FY 90/91 through FY 00/01.



**Figure 2g.2.** Percent of first-offender commercial driver actions set aside, FY 90/91 through FY 00/01.



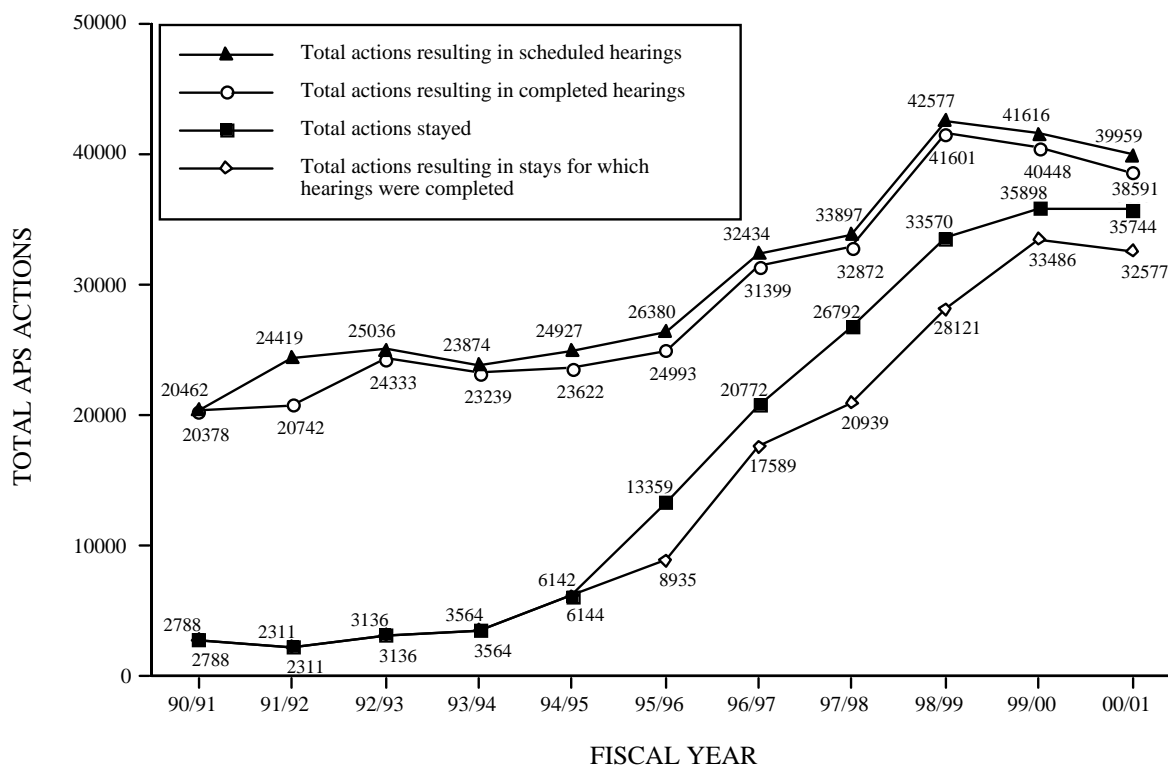


**Figure 2g.3.** Percentage of APS actions initiated against commercial drivers driving in a commercial vehicle that are set aside, FY 90/91 through FY 00/01.

- Large fluctuations in the set aside rate (shown in Figure 2g.3, above) are, in part, a function of the small number of total commercial driver actions.

## SECTION 3: APS HEARINGS

### Section 3a: Hearings for Stayed Versus Non-Stayed Actions



**Figure 3a.1.** Total APS hearings<sup>1</sup> scheduled and completed and total stayed actions<sup>2</sup> opened and closed associated with the hearing requests, FY 90/91 through FY 00/01. These four plotted series are not independent of each other and should not be summed.

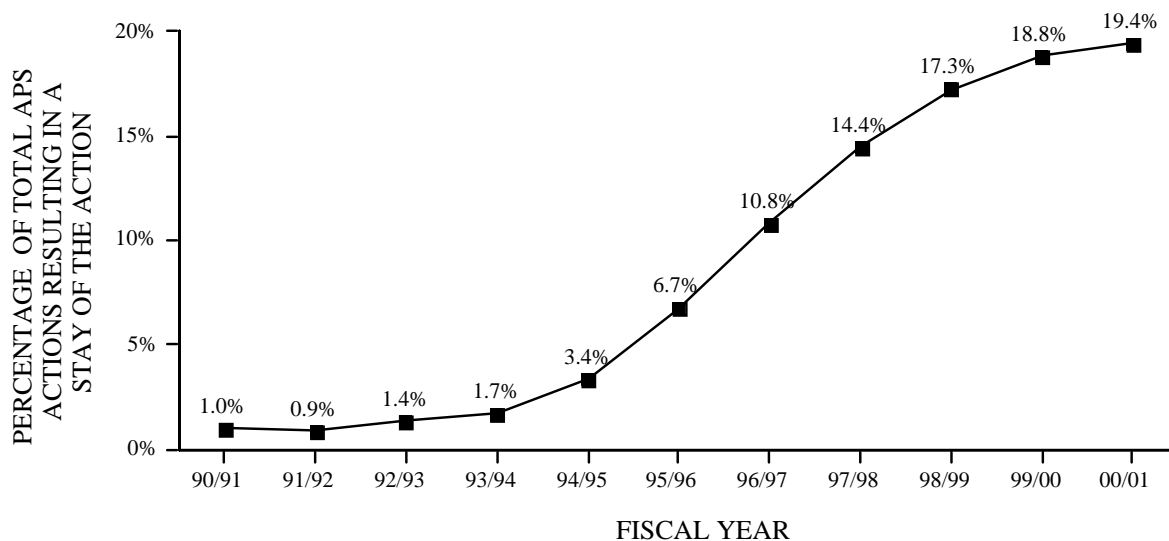
- Figure 3a.1 reveals the increasing prevalence of staying APS actions prior to resolving the cases with hearings. It shows that APS stays have risen from a low of 2,311 total stays in the second year of the APS law to a high of 35,898 stays in FY 99/00. This increase in stays has occurred in spite of a 27.7% reduction in the

<sup>1</sup>Figures include Type 4 (In-person) and Type 7 (Telephone) hearings and exclude Reason code 868 (Dismissal), Type 9 (Driver Safety/Driver Investigation), and Type 1 (Departmental review) hearings.

<sup>2</sup>Not all stayed actions show a scheduled or completed hearing on the driver record. The stays shown in Figure 3a.1 are based on the total actions for which a stay of the action was updated on the driver record; assuming the driver record for other actions stayed will eventually be updated with a scheduled hearing.

number of APS actions initiated (from 263,639 to 190,720) over the same period. (See Figure 1a.1.)

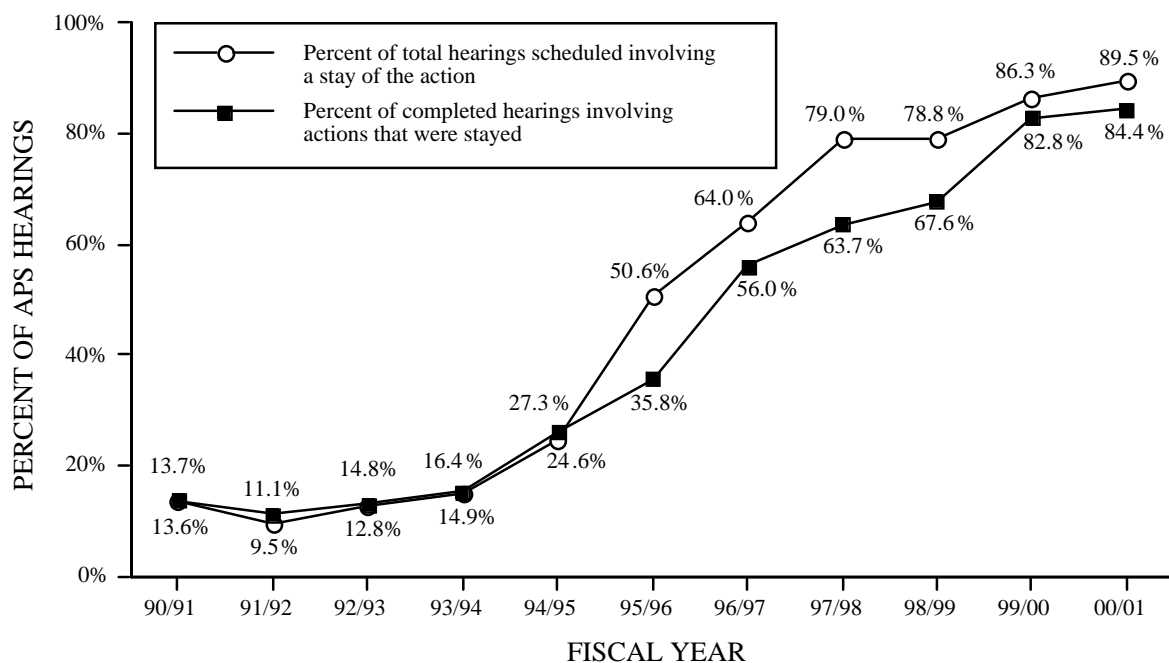
- This increase in stays has a potential of reducing the intended deterrent impact of the otherwise prompt APS action.
- The number of stayed actions has increased nearly 6-fold since FY 94/95. In FY 00/01, total stays dropped slightly (less than 1%).
- Since FY 95/96 there have been roughly between 3,000 and 5,000 more stayed actions on record each year than there were stayed actions with a hearing scheduled. Some of this discrepancy results from duplicate arrest information being updated on the driving record and from delays in updating the driver record with the hearing request, even though the stay was put into place and updated on the record promptly. These acknowledged reasons still don't account for all of the discrepant records, and the reasons for the remaining discrepancies remain unexplained.



**Figure 3a.2.** Proportion of total APS actions taken which resulted in a stay of the action, FY 90/91 through FY 00/01.

- Figure 3a.2 substantiates the large increase in the number of stayed APS actions.
- This trend is problematic because, by delaying the action, stays have the potential of weakening the overall deterrent impact and effectiveness of the “immediate license suspension” law.

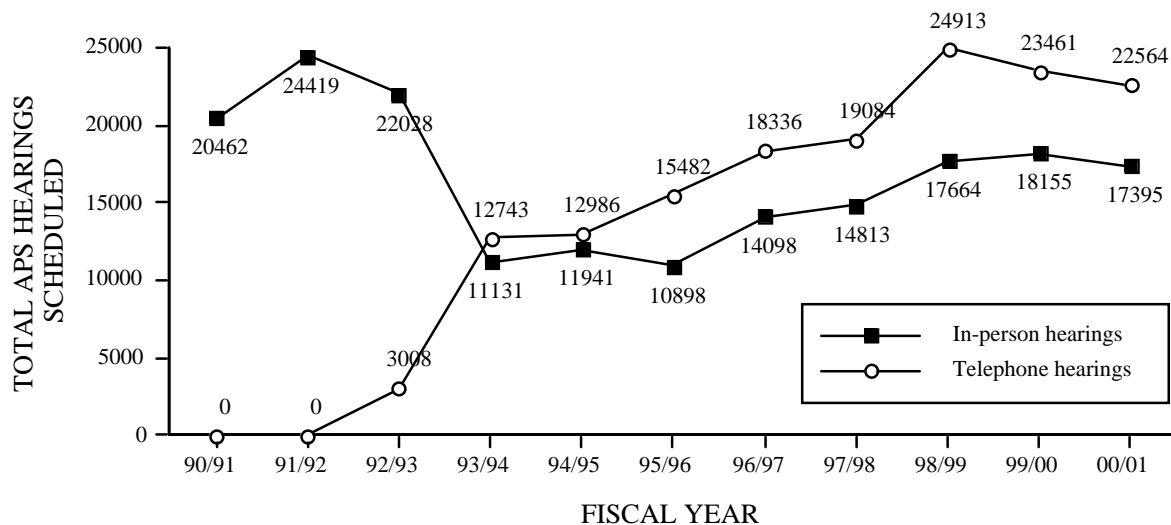
- However, Figure 3a.2 also shows that the rate of change slowed substantially beginning in FY 99/00 (8.6% increase in FY 99/00 over FY 98/99 compared to the 20% increase between FY 97/98 and FY 98/99). This may reflect the impact of a change in policy that became effective May 14, 1999, requiring a stay only as specified in statute. That is, only when a hearing was requested in a timely manner (within 14 days of the mail date of the order) but could not be completed before the effective date of the action, except when the action has been taken under VC Section 13953.



**Figure 3a.3.** Percent of total hearings scheduled for actions that resulted in a stay and the percentage of completed hearings for actions that were stayed, FY 90/91 through FY 00/01.

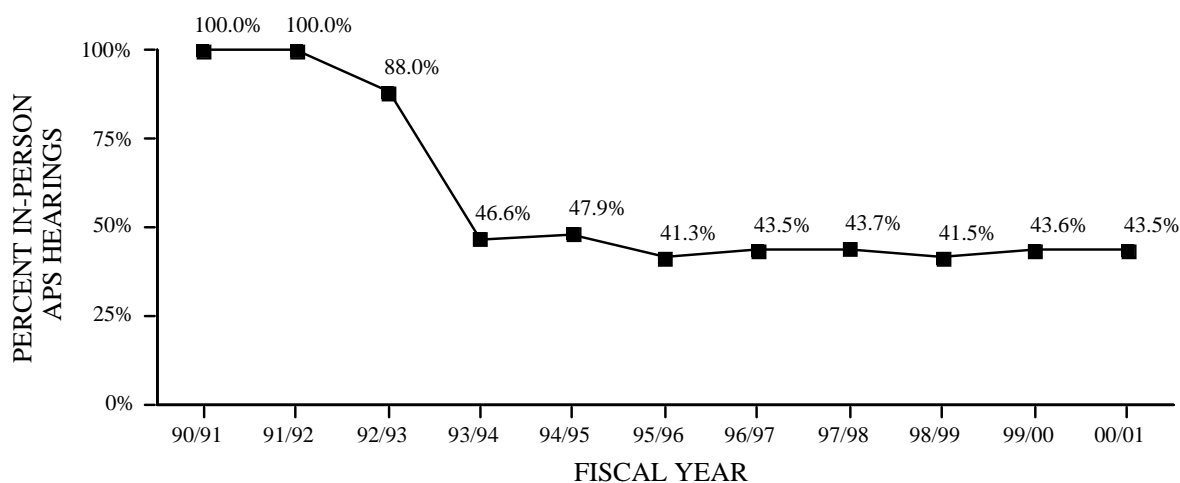
- From Figure 3a.3 it can be established that, beginning in FY 95/96 and continuing through FY 98/99, between 29.2% and 14.2% fewer hearings were completed than scheduled for drivers with stayed actions. However, in FY 99/00, this proportion dropped to only 4.1% fewer stayed action hearings being *completed* than were *scheduled*, and that percentage rose slightly in FY 00/01 to 5.7%.

### Section 3b: Telephone Versus Informal (In-Person) Hearings:

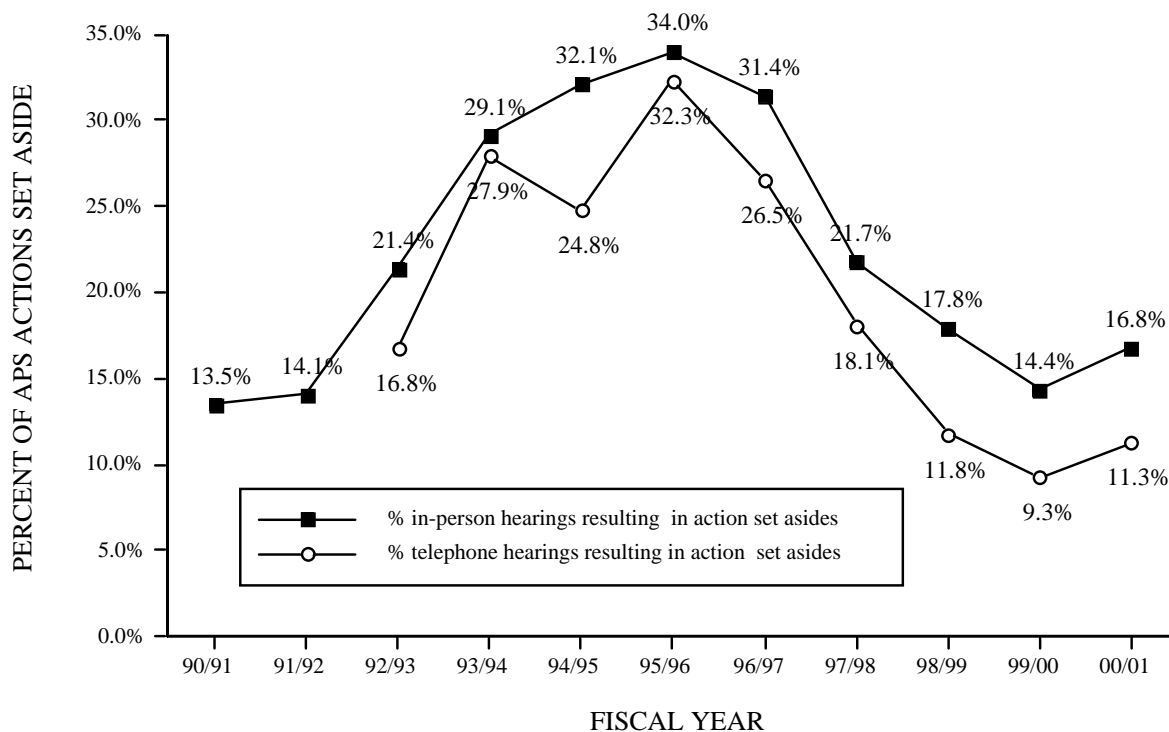


**Figure 3b.1.** Total APS hearings scheduled, by type of hearing contact (in-person or telephone contact), FY 90/91 through FY 00/01.

- Figure 3b.1 shows that, following their introduction in FY 92/93, the number of telephone hearings scheduled surpassed in-person hearings scheduled beginning in their second year (FY 93/94), and have continued to be greater in numbers thereafter.



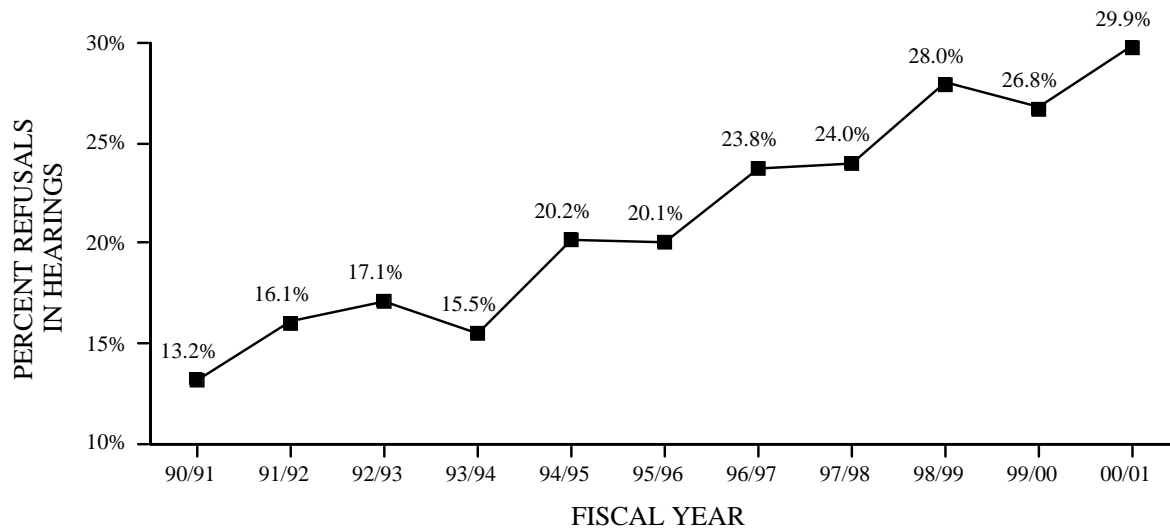
**Figure 3b.2.** Percent of total APS hearings scheduled that were scheduled as in-person hearing contacts, FY 90/91 through FY 00/01.



**Figure 3b.3.** Percent of Type 4 (In-person) and Type 7 (Telephone) APS hearings held resulting in a decision to set aside the originating APS action, FY 90/91 through FY 00/01.

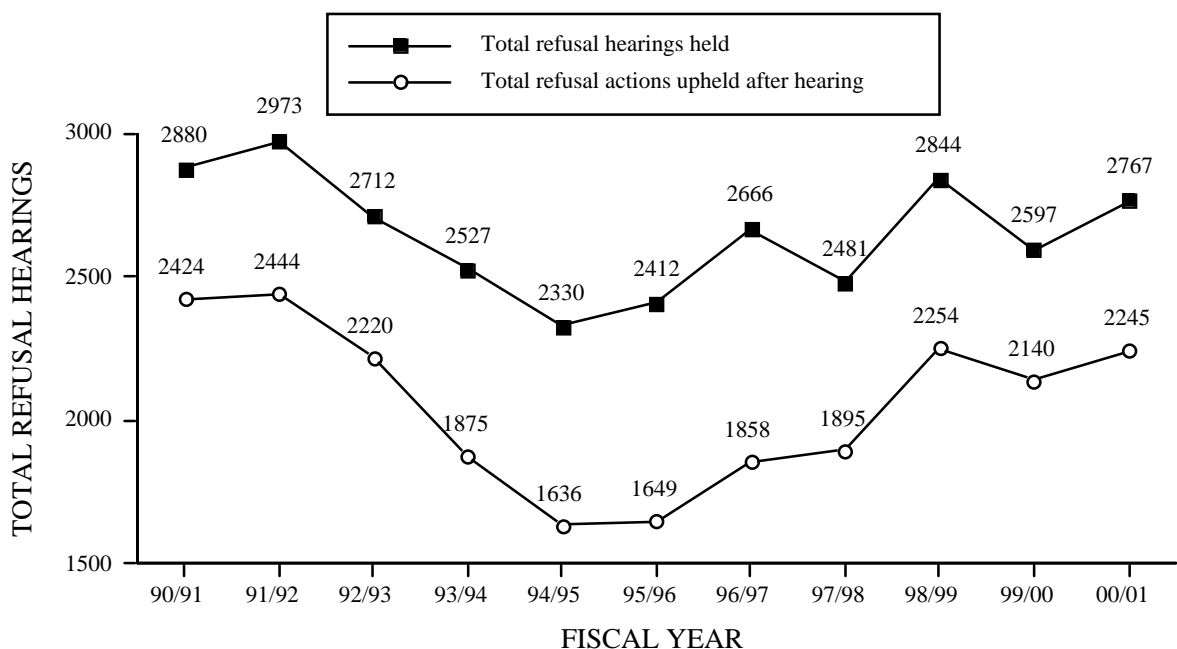
- APS telephone hearings were first introduced in a policy directive issued January 29, 1993 instructing Driver Safety personnel that, with the exceptions of special certificate, seizure and sale, and commercial driver P&M contacts, to “conduct all hearings, interviews and reexaminations by telephone.”
- Figures 3b.1 and 3b.2 indicate that, in spite of this directive, following a slow start up in 1993, each year since, just under half of all APS hearings have been conducted in person.
- Figure 3b.3 shows that, consistently, proportionately more in-person hearings than telephone hearings result in a decision to set aside the APS action, with this proportionate difference increasing substantially in the past three years. In FY 00/01, 33% more in-person hearings held resulted in a set aside decision than did telephone hearings.

### Section 3c: Refusal Hearings

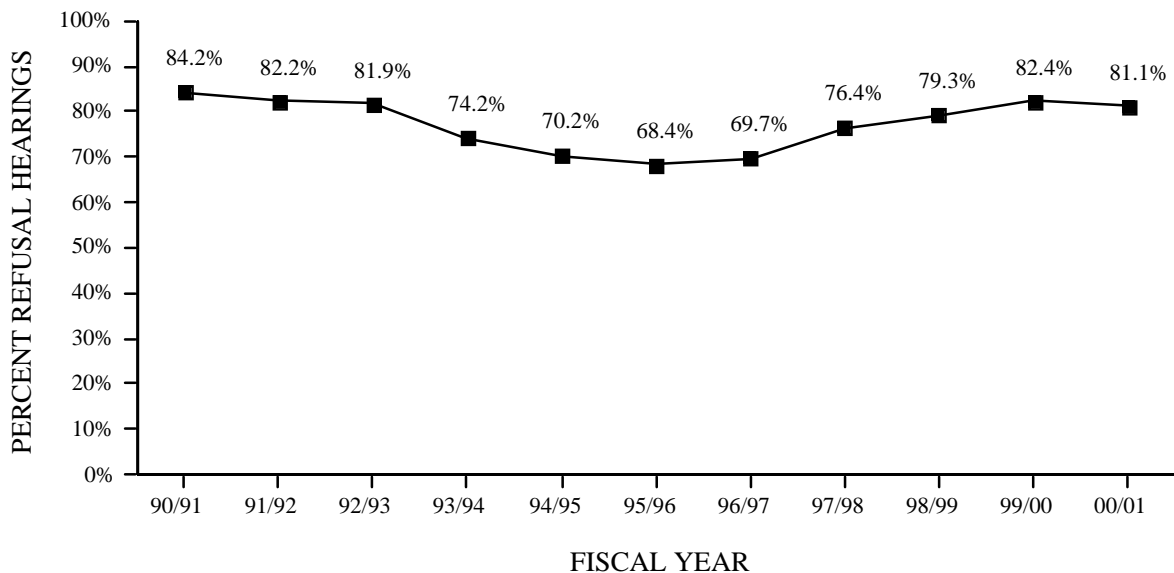


**Figure 3c.1.** Percent of total refusal (implied consent) actions challenged in a hearing, FY 90/91 through FY 00/01. Includes hearings conducted for all types of refusal actions, including those of zero tolerance law offenders refusing a preliminary alcohol screening (PAS) test or evidentiary BAC test as required under VC section 13388, or an evidentiary test as required under VC section 23612.

- Figure 3c.1 shows that there has been a fairly steady increase each year in the proportion of refusal actions challenged in a hearing.
- The respondent challenged the license action in 30% of all refusal actions initiated in FY 00/01. This percentage is 38.2% higher than the overall hearing rate of 21.7% for all types of APS actions combined.



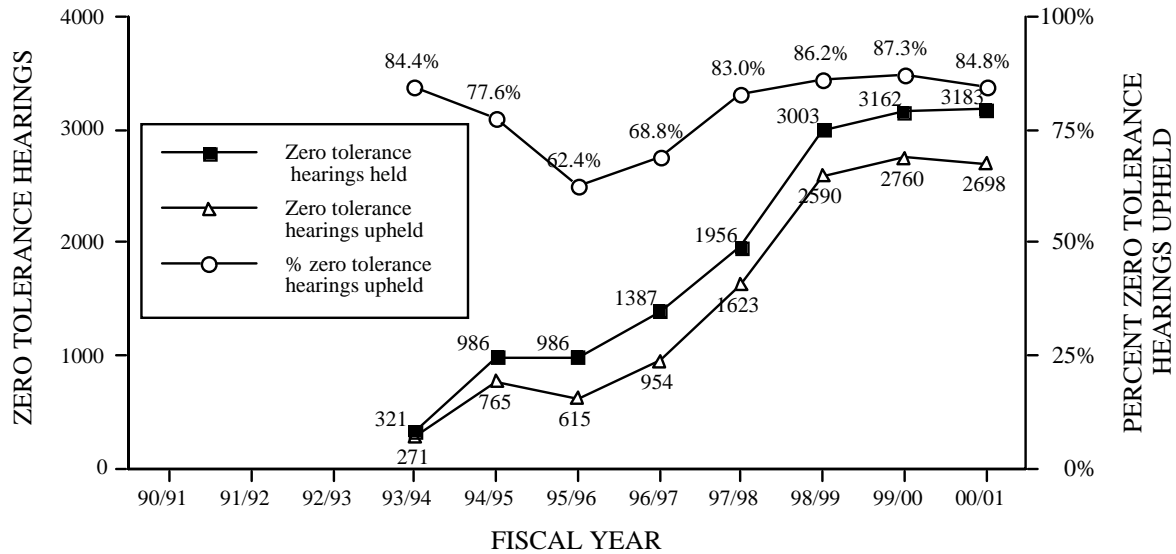
**Figure 3c.2.** Total refusal (implied consent) hearings held and actions upheld after hearing, FY 90/91 through FY 00/01.



**Figure 3c.3.** Percent refusal (implied consent) hearings held resulting in upholding the suspension action, FY 90/91 through FY 00/01.



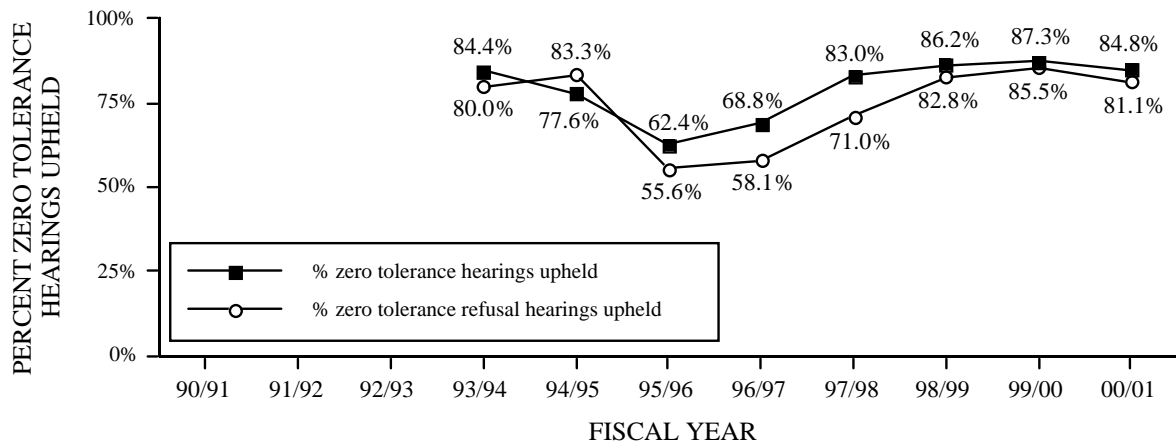
### Section 3d: Zero Tolerance Hearings



Note. The “zero tolerance” law was introduced January 1, 1994.

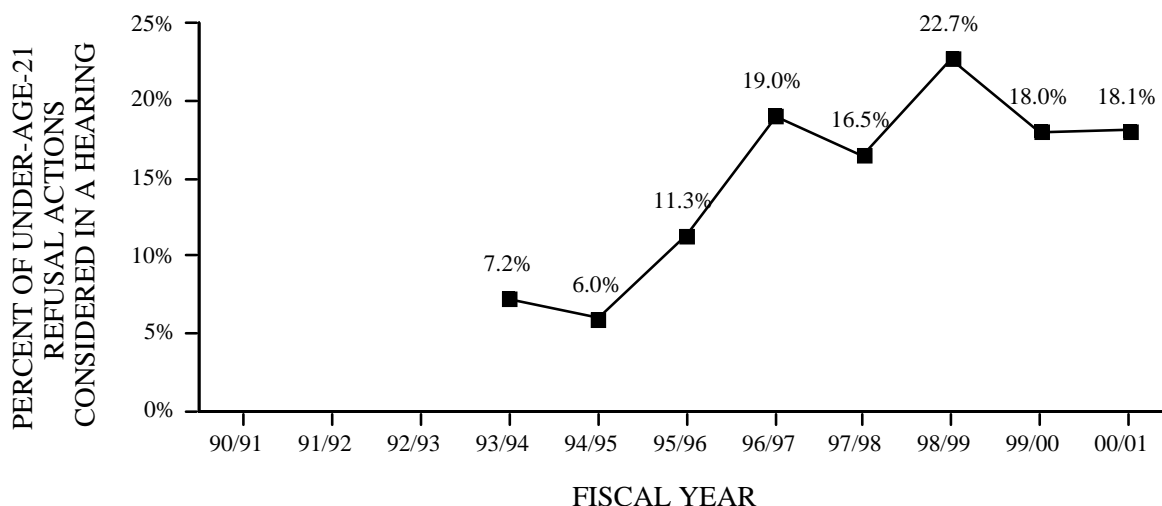
**Figure 3d.1.** Total zero tolerance hearings held and upheld and percent of zero tolerance hearings upheld, FY 93/94 through FY 00/01. Figures include actions taken on the basis of a PAS, evidentiary BAC test, or refusal for drivers who were under age 21 at the time of being detained or arrested.

- The percentage of actions sustained following hearings for under age 21 drivers detained under the zero tolerance law or arrested for DUI hit a low of 62.4% in FY 95/96, but has increased each year since, reaching a high of 87.3% in FY 99/00.



**Figure 3d.2.** Percent of zero tolerance action and under-age-21 implied consent actions upheld following a hearing, FY 93/94 through FY 00/01.

- Figure 3d.2 shows that between FY 95/96 and FY 97/98, considerably fewer refusal actions for drivers under age 21 were sustained following a hearing than were non-refusal “zero tolerance” actions. Sustain rates for refusal actions each year thereafter continue to be somewhat lower than those for actions taken on young drivers who complied with PAS or evidentiary BAC testing.



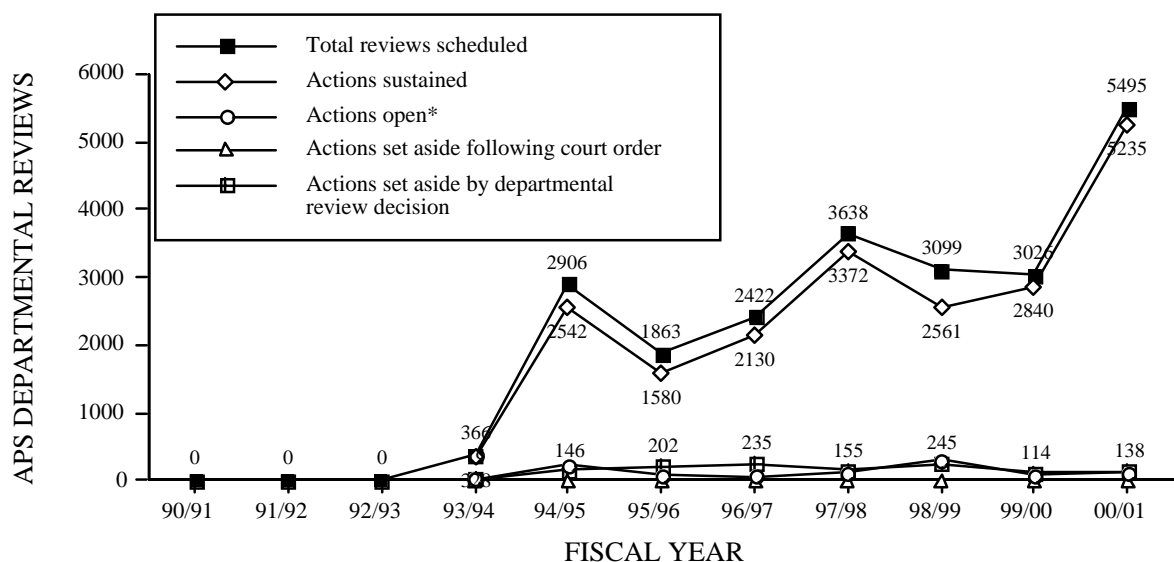
Note. The “zero tolerance” law was introduced January 1, 1994.

**Figure 3d.3.** Percent of total (gross) zero tolerance or under-age-21 implied consent (refusal) actions that were considered in a hearing, FY 93/94 through FY 00/01.

- Since the first several years of the zero tolerance law, the percentage of zero tolerance refusal actions being challenged in a hearing has more than doubled.
- The last two years have shown a drop in the hearing rate from a high of 22.7% in FY 98/99.

## **SECTION 4: DEPARTMENTAL REVIEWS**

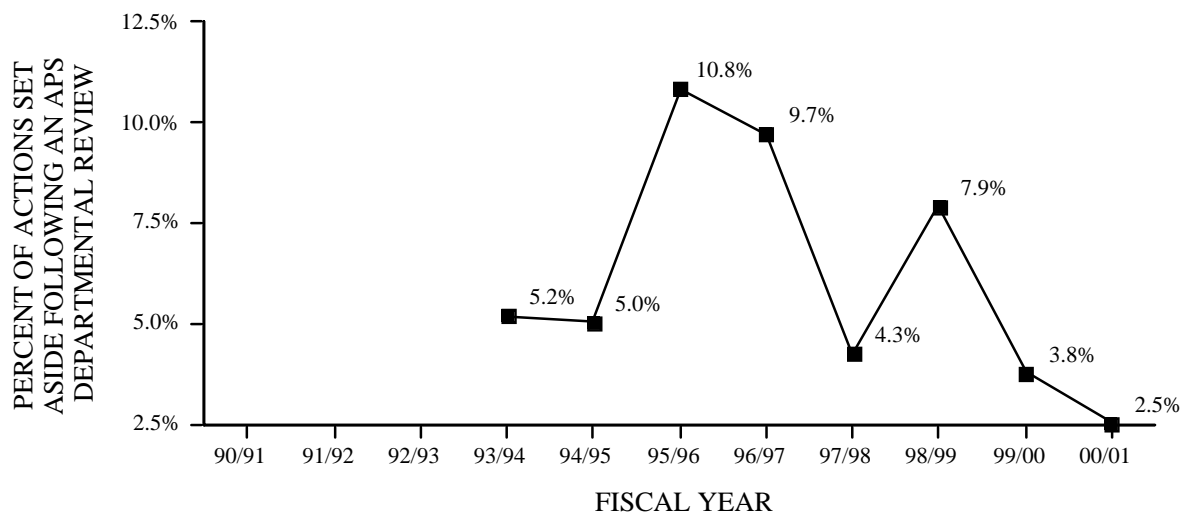
- Within specified limits, a person may request a review of the hearing decision subsequent to an APS hearing. While such reviews have been conducted by the department since 1981, a separate hearing code was introduced to capture these work activities only sometime after June 1993. Consequently, departmental reviews following an APS hearing do not appear on the driver record until FY 93/94. Prior to that time, there was no driver record update for a departmental review. Most departmental reviews that were conducted before June 1993 were not captured on the driver record at all although it is likely that some might have been updated and counted among total hearing counts. Consequently, APS departmental reviews can only be tracked back to those scheduled in FY 93/94.



\*These hearings were still open as of the date the particular year's data were collected.

**Figure 4.1.** Total number of APS departmental reviews scheduled following a DMV hearing, by review outcome, FY 93/94 through FY 00/01.

- Figure 4.1 shows that the majority of APS cases subject to departmental review have been sustained in each of the years presented.
- The large increase in total department reviews in FY 00/01 is attributable to a temporary increase in staff time allocated to conducting these reviews in an effort to catch up with a backlog of roughly 2000 cases that had accumulated. It is expected that the total in future years will be more consistent with prior year's totals.

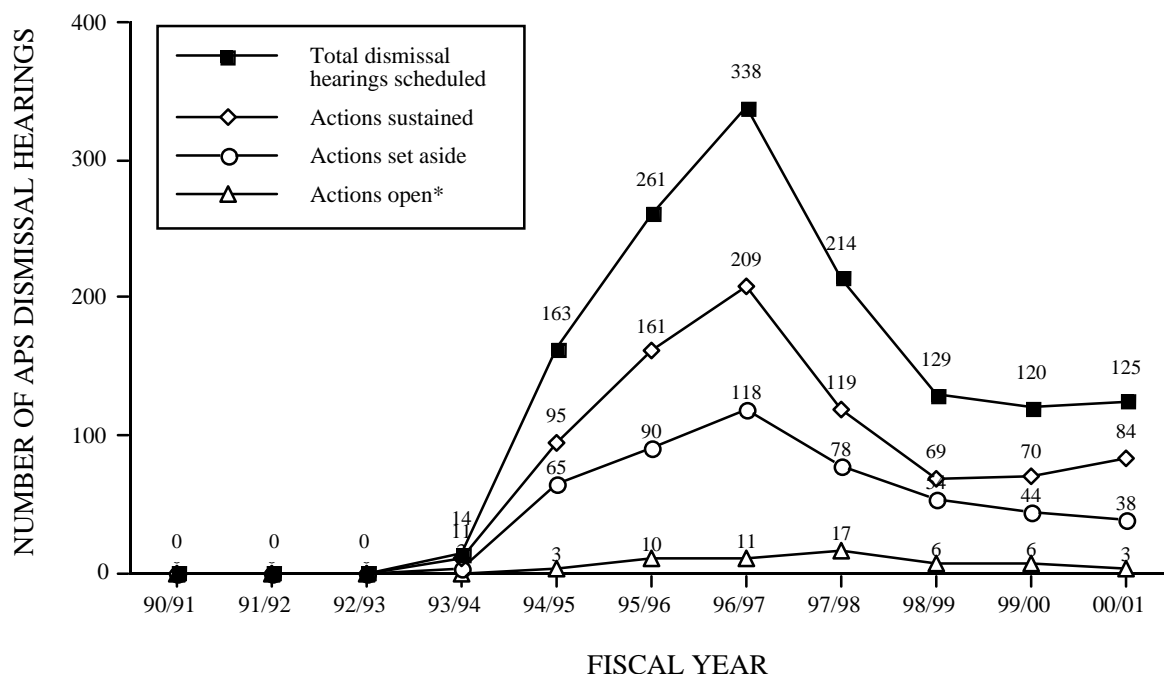


**Figure 4.2.** Percentage of APS departmental reviews resulting in the action being set aside, FY 93/94 through FY 00/01.

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- This plot shows that the vast majority of departmental reviews result in finding sufficient support to sustain the original hearing decision.

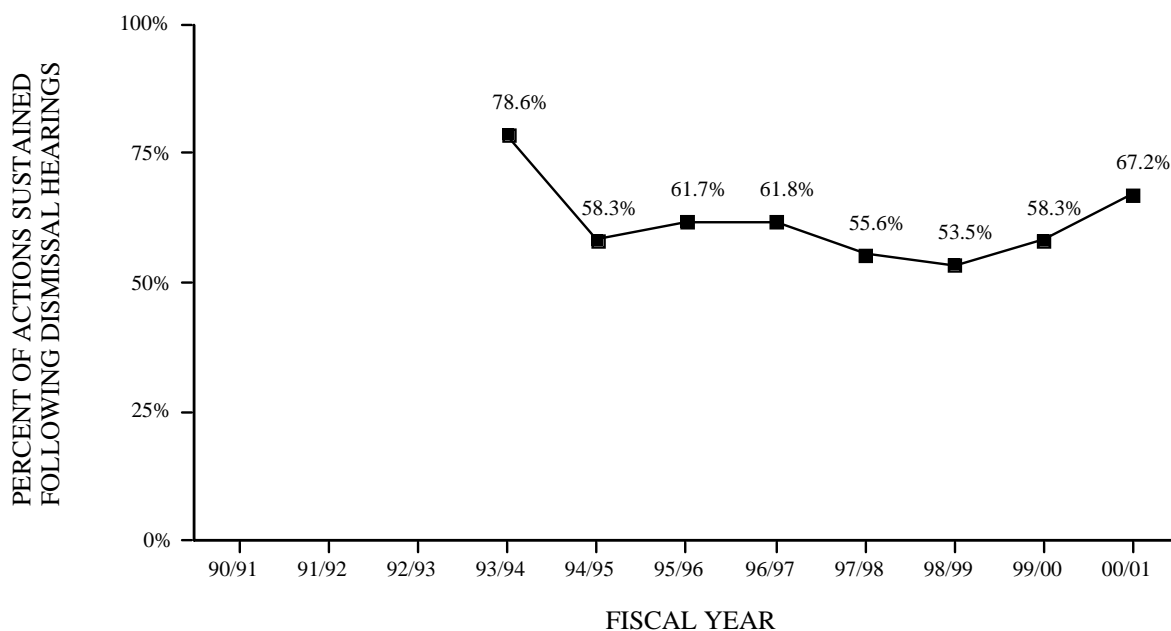
## SECTION 5: DISMISSAL HEARINGS



\* These hearings were still open as of the date the particular year's data were collected.

**Figure 5.1.** Total number of APS dismissal hearings scheduled following the court's decision not to prosecute, by hearing outcome, FY 93/94 through FY 00/01.

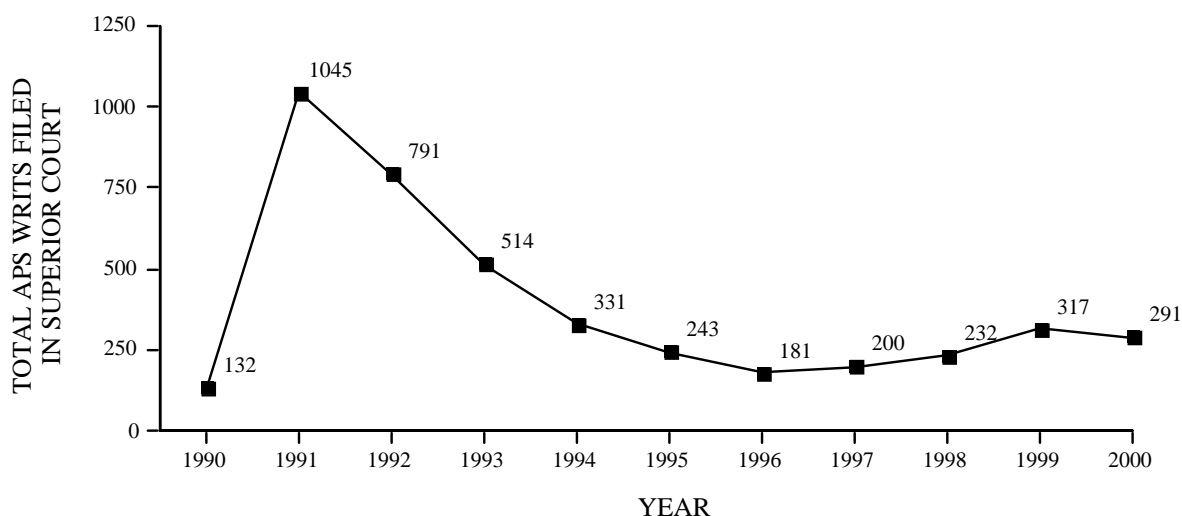
- Chapter 1244 (SB 126, Lockyer) became law on January 1, 1994. This bill amended the APS law, permitting an individual charged under VC section 13353.2 a renewed right to a hearing following a court decision not to prosecute the individual for the DUI charge because of a lack of evidence, or for insufficiency of evidence.
- No provision exists under the zero tolerance law, VC § 23136, for a dismissal hearing. Since eligibility to be granted one of these types of hearings is very limited, the annual totals for these hearings remain low.



**Figure 5.2.** Percent of APS actions sustained following a dismissal hearing, FY 90/91 through FY 00/01.

- The total number of dismissal hearings requested has generally not been available. However, beginning with data from 1998, the Driver Safety Litigations Unit began manually keeping a count of dismissal hearing requests. That data shows that there were 771 requests in 1998, 978 requests in 1999, and 875 requests in 2000. To determine the proportion of these requests that were actually heard, the calendar year totals were interpolated (by averaging them together two years at a time) to provide estimated fiscal year total requests. The interpolated estimates were 875 requests in FY 98/99, and 927 requests in FY 99/00. To the extent that these estimates are accurate, they indicate that only 14.7% and 12.9% of the total requests made in those two years, respectively, were by drivers who were actually eligible for a dismissal hearing.

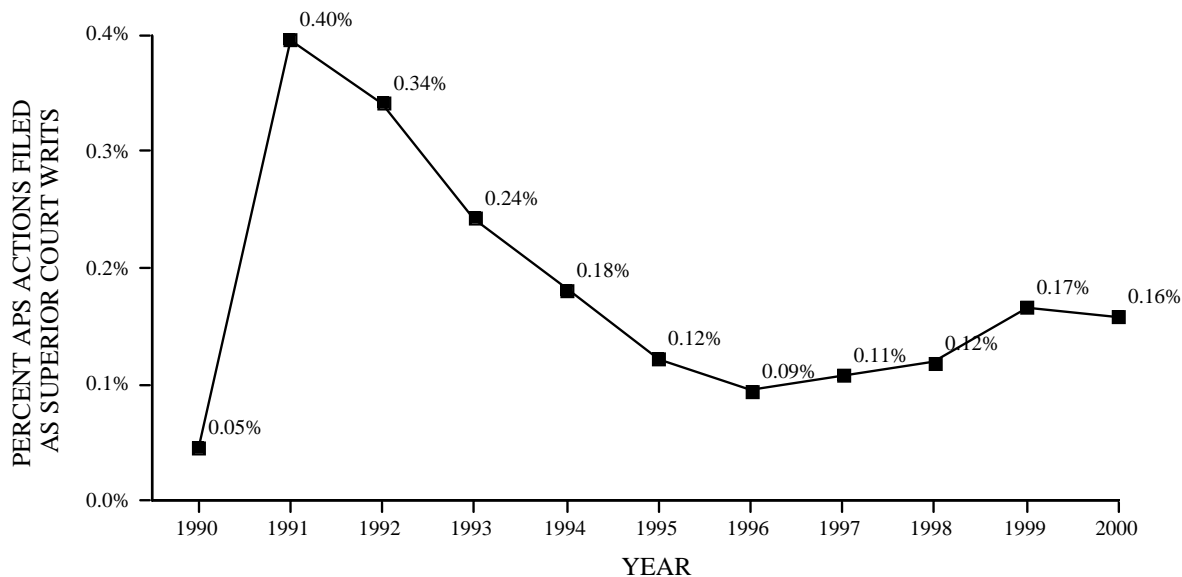
## **SECTION 6: APS ACTION COURT CHALLENGES**



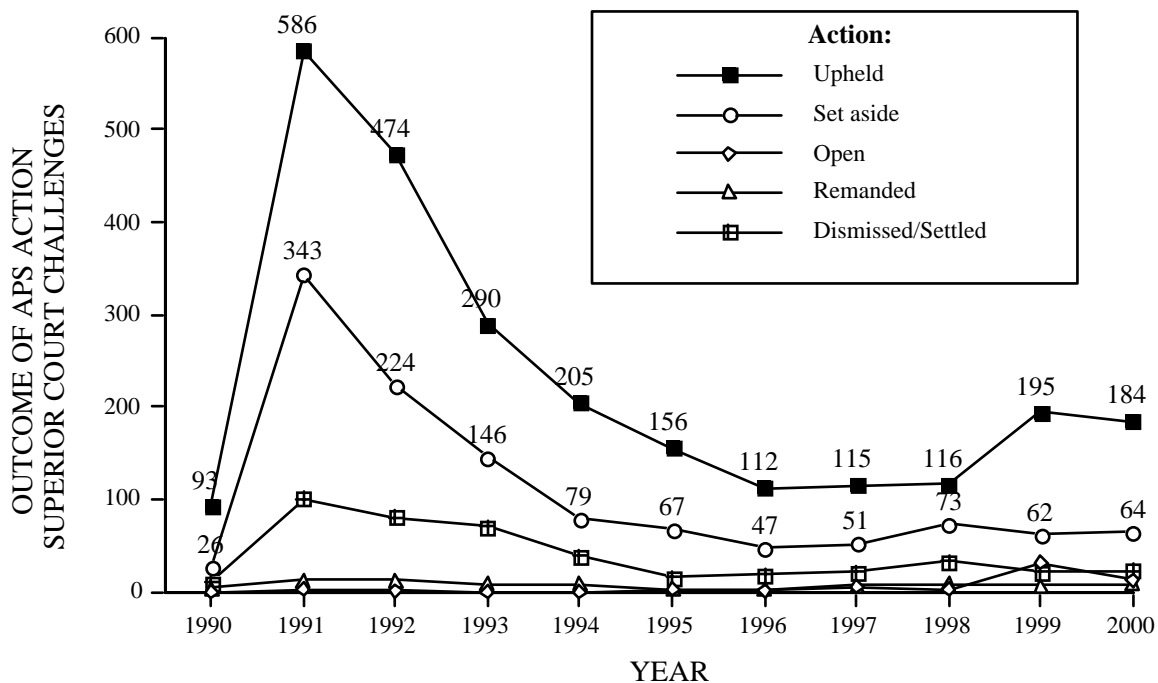
Note. Figures are based on total Superior Court challenges filed as of 12/31/2000 and do not indicate which, if any were subsequently heard in Appellate Court challenges.

**Figure 6.1.** APS actions challenged in Superior Court by year of court challenge, excluding zero tolerance action cases; 7/1/1990 through 12/31/2000.

- Figure 6.1 includes all types of APS action writs, including those filed for actions taken against drivers who submitted to a test of their BAC and those who refused such a test.
- Total court challenges peaked in the first full year of the APS law and steadily declined until 1997, when the trend reversed and writs increased slightly each year until 2000. The great number of initial challenges no doubt related to the fact that the law was new and untried. The case law decisions rendered in those first years following implementation of the new law helped better establish and define the APS process. Over time one would expect there would be fewer of these early case law issues to resolve.
- These data show that there have consistently been very few APS actions challenged in court following the hearing decision, relative to the number of total APS cases.

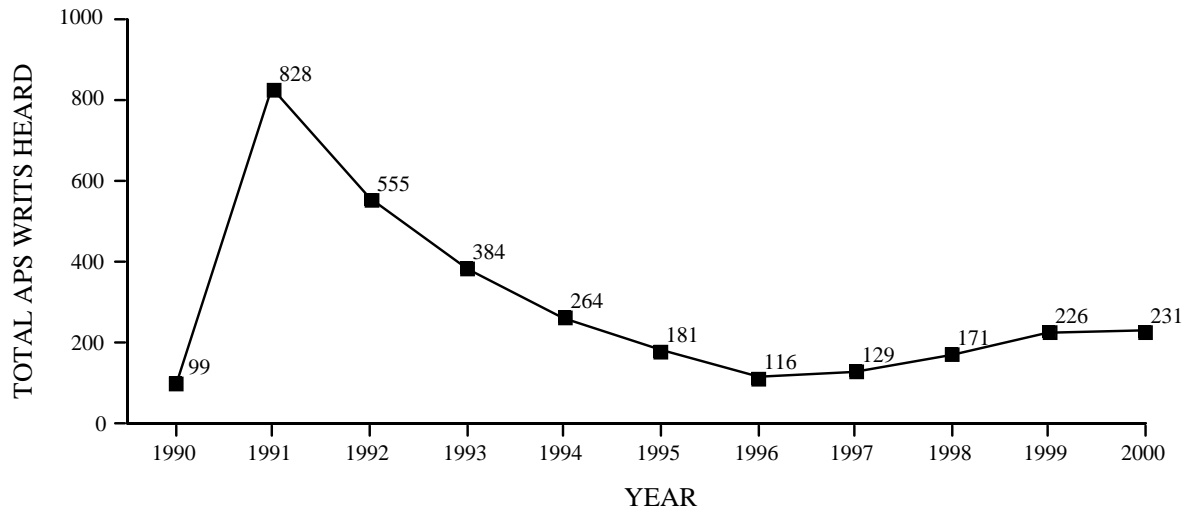


**Figure 6.2.** Percent of APS actions resulting in filed Superior Court writs, excluding zero tolerance cases, 7/1/1990 through 12/31/2000.

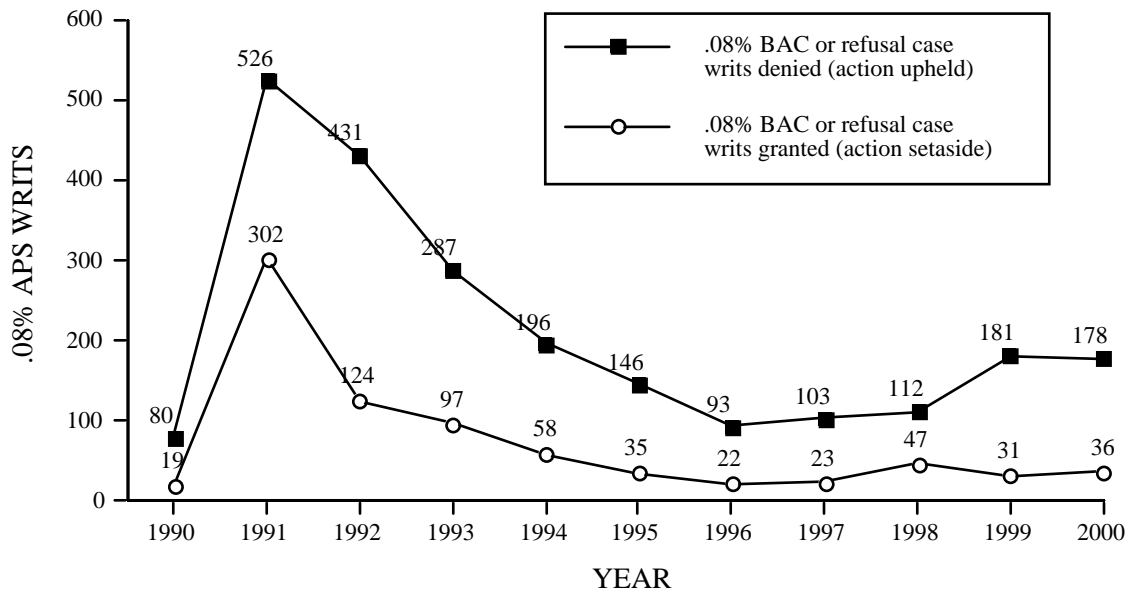


**Figure 6.3.** Outcome of APS administrative action court challenges, excluding zero tolerance cases, 7/1/1990 through 12/31/2000.

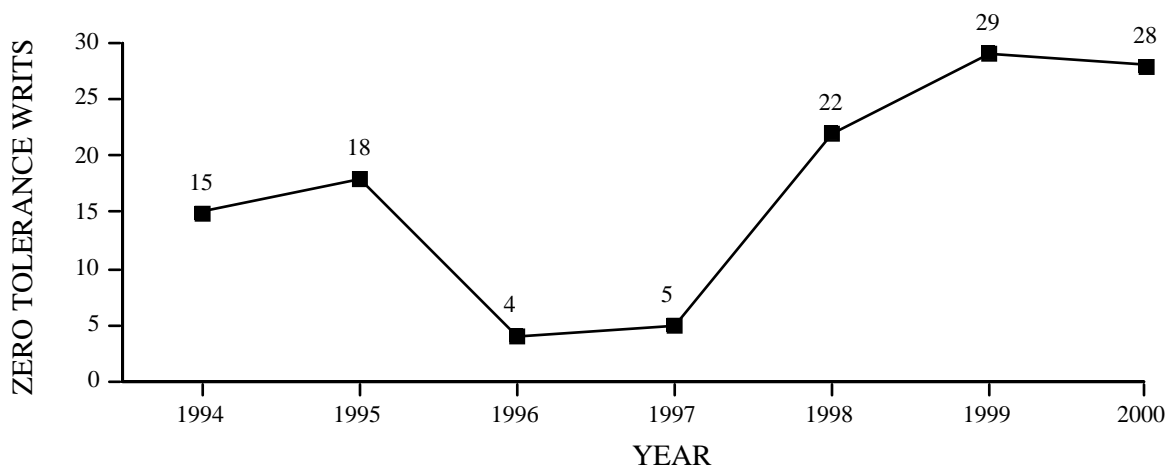




**Figure 6.4.** APS writs actually considered by the court, 7/1/1990 through 12/31/2000. Includes both .08% and .01% zero tolerance writs. Excludes cases settled or dismissed without a court ruling.

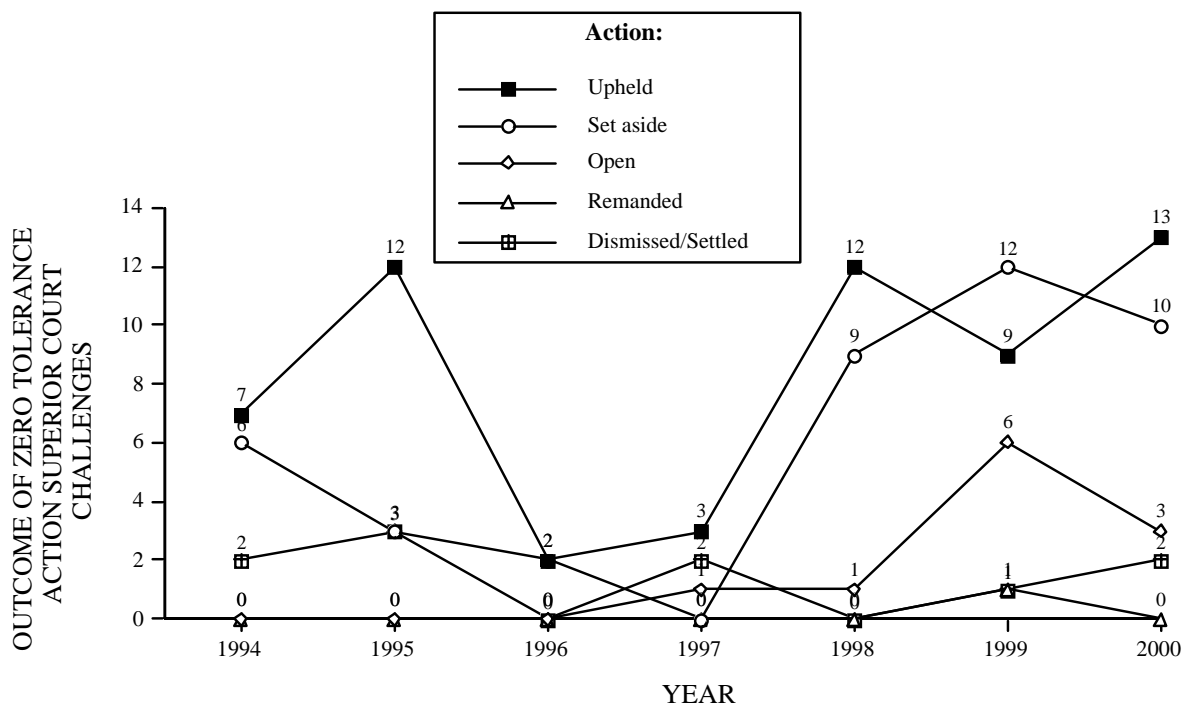


**Figure 6.5.** .08% BAC or refusal APS writs denied (action upheld) or granted (action set aside) by Superior Court ruling, for cases completed as of 12/31/2000.



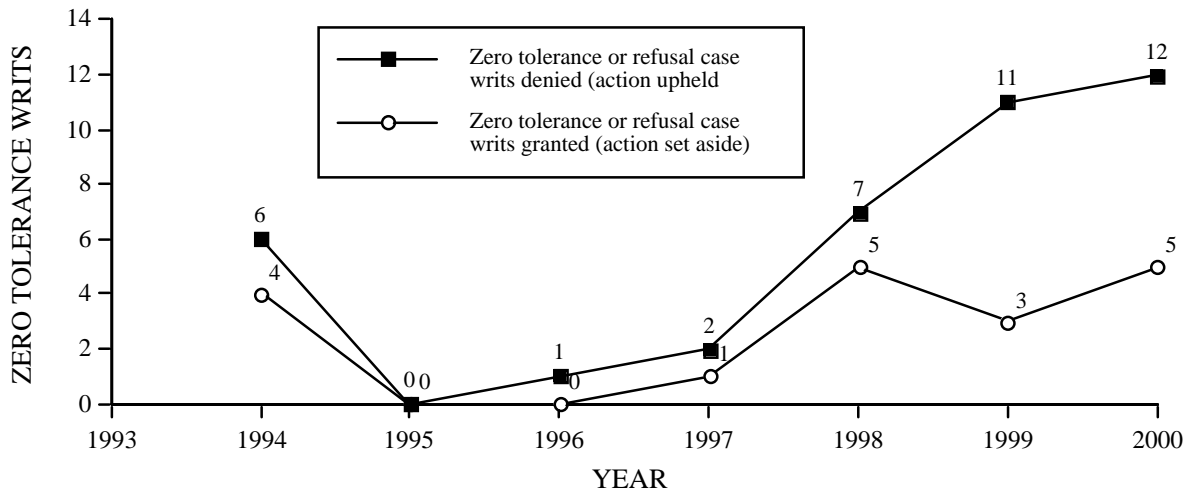
Note. Figures are based on total Superior Court challenges as of 12/31/2000 and do not indicate which, if any were subsequently heard in Appellate Court challenges.

**Figure 6.6.** Zero tolerance APS actions challenged in Superior Court, by year of court challenge, 1/1/1994 through 12/31/2000.

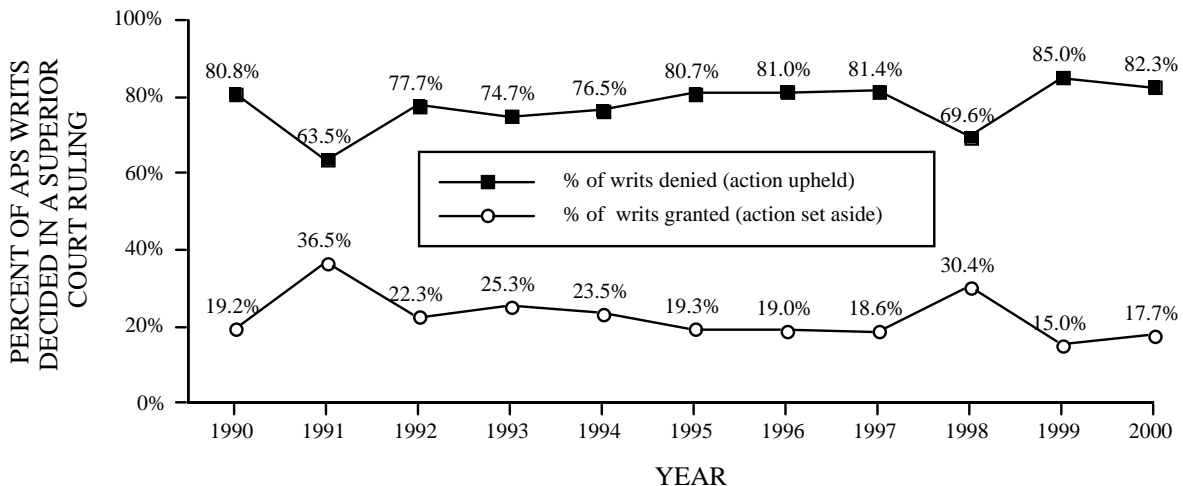


**Figure 6.7.** Outcome of zero tolerance and under age 21 refusal actions challenged in court, 1/1/1994 through 12/31/2000.

- The outcomes described in Figure 6.7 represent the ultimate outcomes of the zero tolerance actions and may not reflect an outcome related to a direct court decision. For instance, some of the set aside cases were set aside subsequent to court order, and some were set aside by the department prior to the court making any ruling. The outcome of zero tolerance cases for which the writ was granted or denied by a court decision is presented in Figure 6.8, below.



**Figure 6.8.** Zero tolerance and under age 21 refusal case writs denied or granted by Superior Court action, for cases completed as of 12/31/2000.



**Figure 6.9.** Percentage of APS and zero tolerance case writs denied or granted by Superior Court action, for cases completed as of 12/31/2000.

## **SECTION 7: REGIONAL TRENDS FOR TOTAL APS ACTIONS**

- The regional data presented here show APS actions and hearing activity by Driver Safety Region (including the Driver Safety regional structure that was in effect between May 1995 and May 1998, and also the revised regional structure that took effect in May 1998 and continued through the final fiscal year reported in this report). Tables 7.1 and 7.2 present the offices included in each of the specific Driver Safety regions as they were structured first between FY 95/96 through FY 97/98 (shown in Table 7.1), and then between FY 98/99 through FY 00/01 (shown in Table 7.2).
- Headquarters Region (HQ) is shown in each of the tables and figures presented in this section, but the reader is cautioned not to compare it to the other Driver Safety regions since the volume and nature of the regular APS hearings that are conducted by HQ are generally quite different than those held in the regular course of business by the other Driver Safety regions.

**Table 7.1: Driver Safety Offices Composing Driver Safety Regions**  
From FY 95/96 Through FY 97/98<sup>1</sup>

Region 1 Sacramento (Sacramento) <sup>2</sup>	Region 2 Oakland (OAK) <sup>2</sup>	Region 3 Fresno (Fresno) <sup>2</sup>	Region 4 Los Angeles (LA) <sup>2</sup>	Region 5 San Bernardino (SNB) <sup>2</sup>	Region 6 San Diego (San Diego) <sup>2</sup>	Region 7 Headquarters (HQ) <sup>2</sup>
Sacramento	Concord	Bakersfield	Inglewood	City of Commerce	Irvine	Headquarters
Stockton	Oakland	Fresno	Long Beach	San Bernardino	San Diego	
Santa Rosa	San Francisco	Oxnard	Los Angeles			
Yuba City		Seaside	Van Nuys			
		San Jose				

<sup>1</sup>Names of the hearing points are provided in Table 59 of the ISD DL Code Book, or in Driver Safety document dated 5/4/98 describing the Driver Safety "District and Satellite Offices."

<sup>2</sup>Parenthetical titles are those used in displaying the regional trend figures throughout this report.

- Tabulations used in Table 7.1 were actually based on counts obtained for each hearing point indicated on the driver record and aggregated according to which office the hearing point was assigned and which region the office was assigned between FY 95/96 and FY 97/98. Region titles and composition were obtained from a combination of advisement by Driver Safety management, and Division of Driver Safety Memoranda dated May 11, 1994 and February 16, 1995.

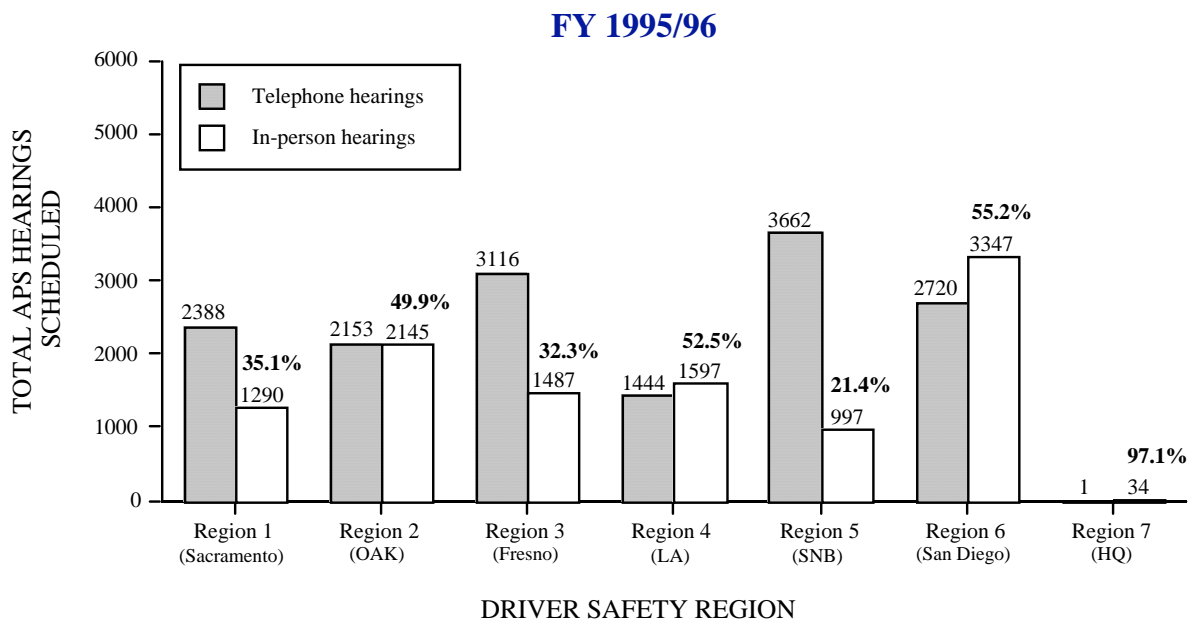
**Table 7.2: Driver Safety Offices Composing Driver Safety Regions**  
From FY 98/99 Through FY 00/01<sup>1</sup>

Region 1 Northern/ Sacramento (Northern) <sup>2</sup>	Region 2 Coastal/ Oakland (Coastal) <sup>2</sup>	Region 3 Metro/El Segundo (Metro) <sup>2</sup>	Region 4 Inland/San Bernardino (Inland) <sup>2</sup>	Region 5 Southern/ San Diego (Southern) <sup>2</sup>	Region 6 Headquarters (HQ) <sup>2</sup>
Fresno	Oakland	El Segundo	City of Commerce	Irvine	Headquarters
Sacramento	San Francisco	Oxnard	San Bernardino	San Diego	
	San Jose				

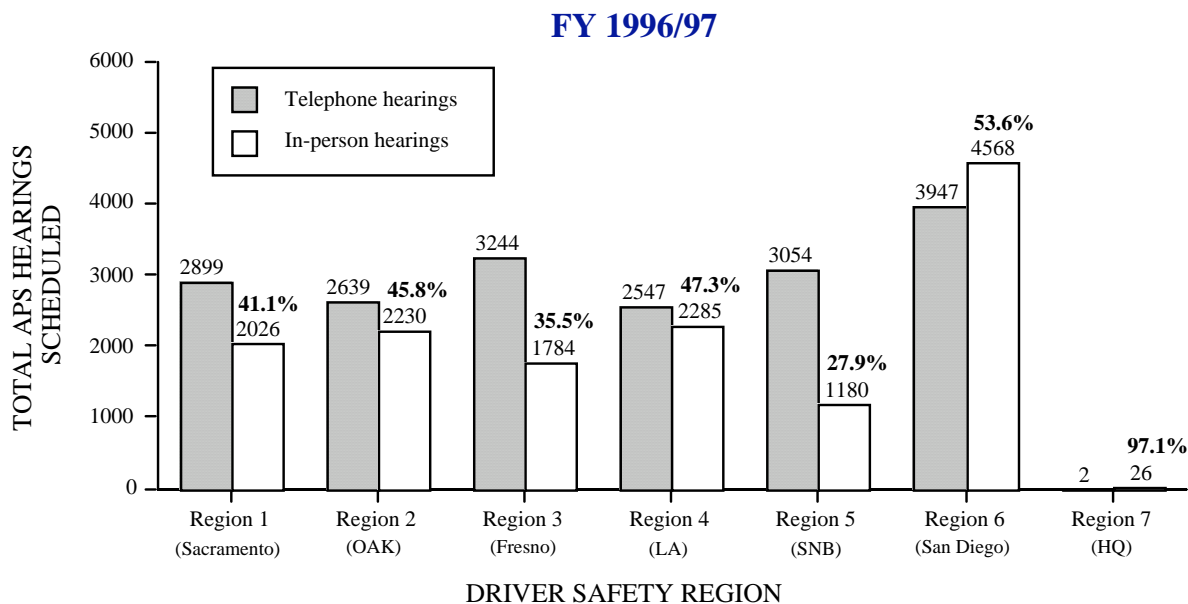
<sup>1</sup>Names of the hearing points are provided in Table 59 of the ISD DL Code Book, or in Driver Safety document dated 5/4/98 describing the Driver Safety "District and Satellite Offices."

<sup>2</sup>Parenthetical titles are those used in displaying the regional trend figures throughout this report.

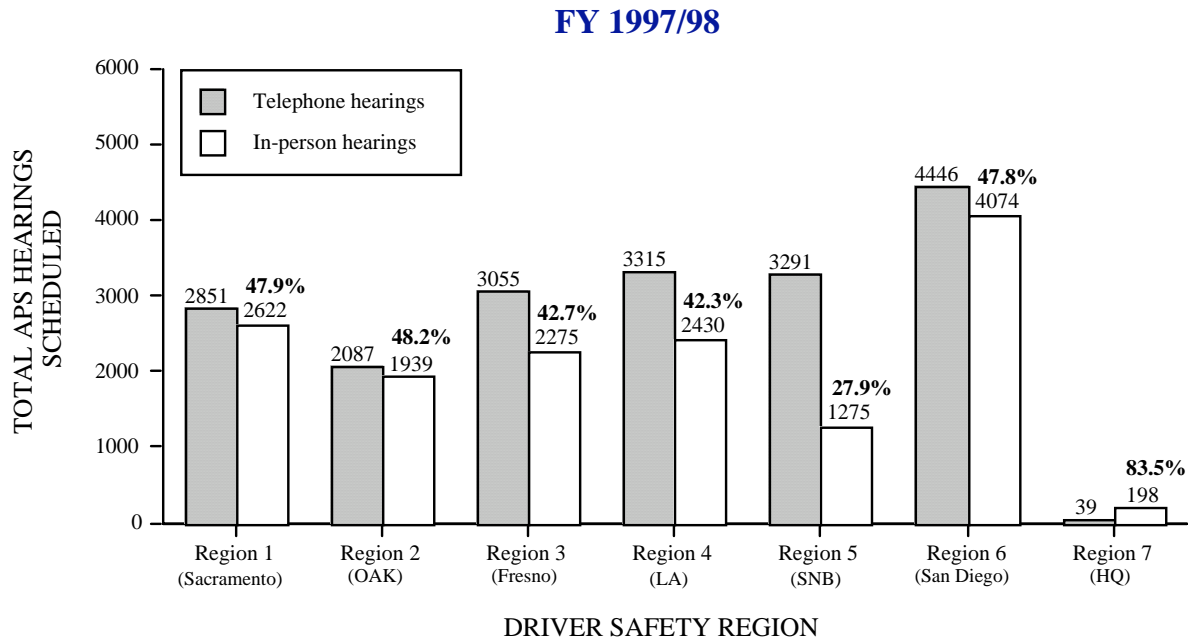
- Tabulations were actually based on counts obtained for each hearing point indicated on the driver record and aggregated according to which office the hearing point was assigned and which region the office was assigned between FY 95/96 and FY 97/98. Region titles and composition were obtained from a combination of advisement by Driver Safety management, titles obtained from Driver Safety Crystal Pro reports, and Driver Safety document dated 5/4/98 describing the Driver Safety "District and Satellite Offices."

**Section 7a: Scheduled In-person (Type 4) and Telephone (Type 7) Hearings by Region**

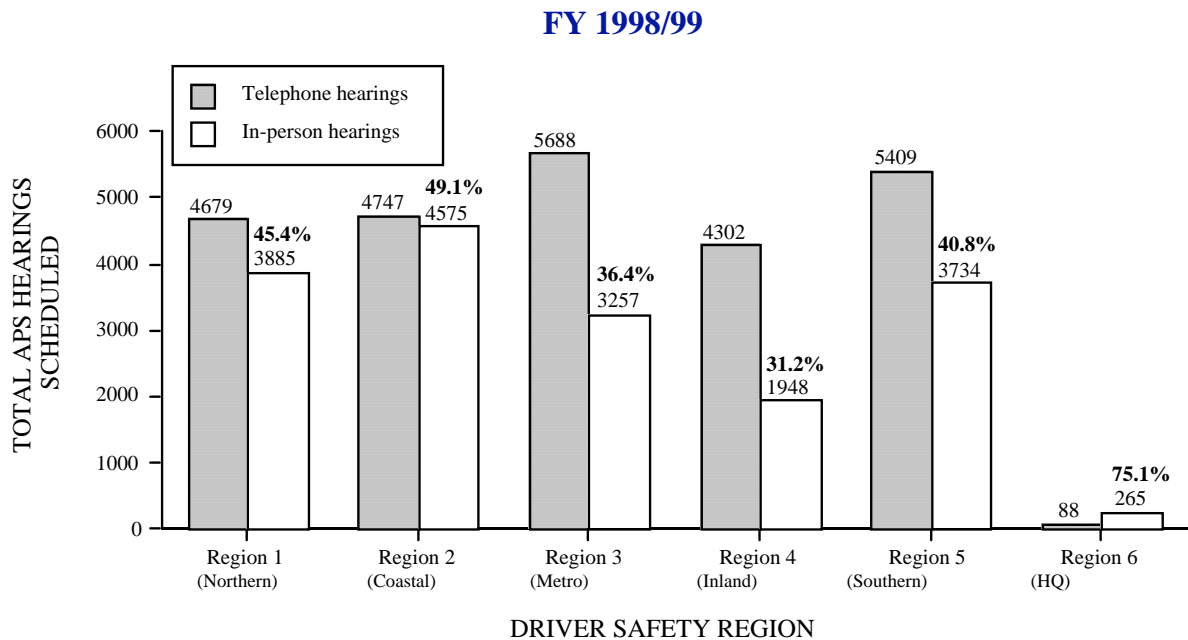
**Figure 7a.1.** Total APS Type 4 (In-person) and Type 7 (Telephone) hearings scheduled and percentage in-person by Region, FY 95/96.



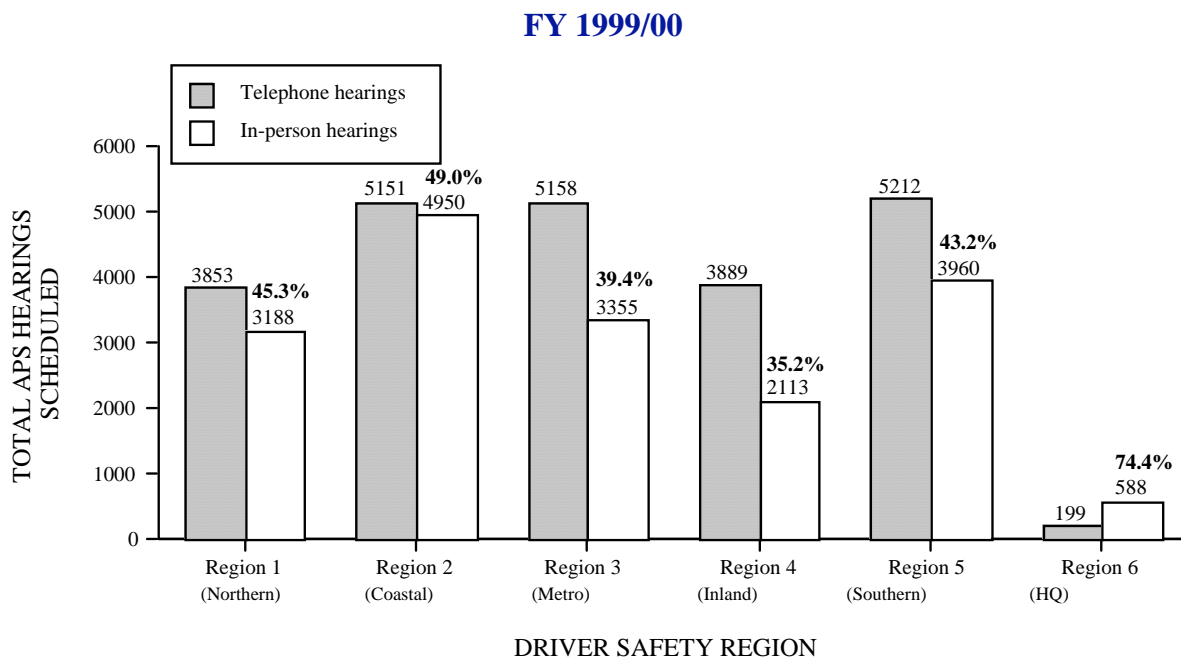
**Figure 7a.2.** Total APS Type 4 (In-person) and Type 7 (Telephone) hearings scheduled and percentage in-person by Region, FY 96/97.



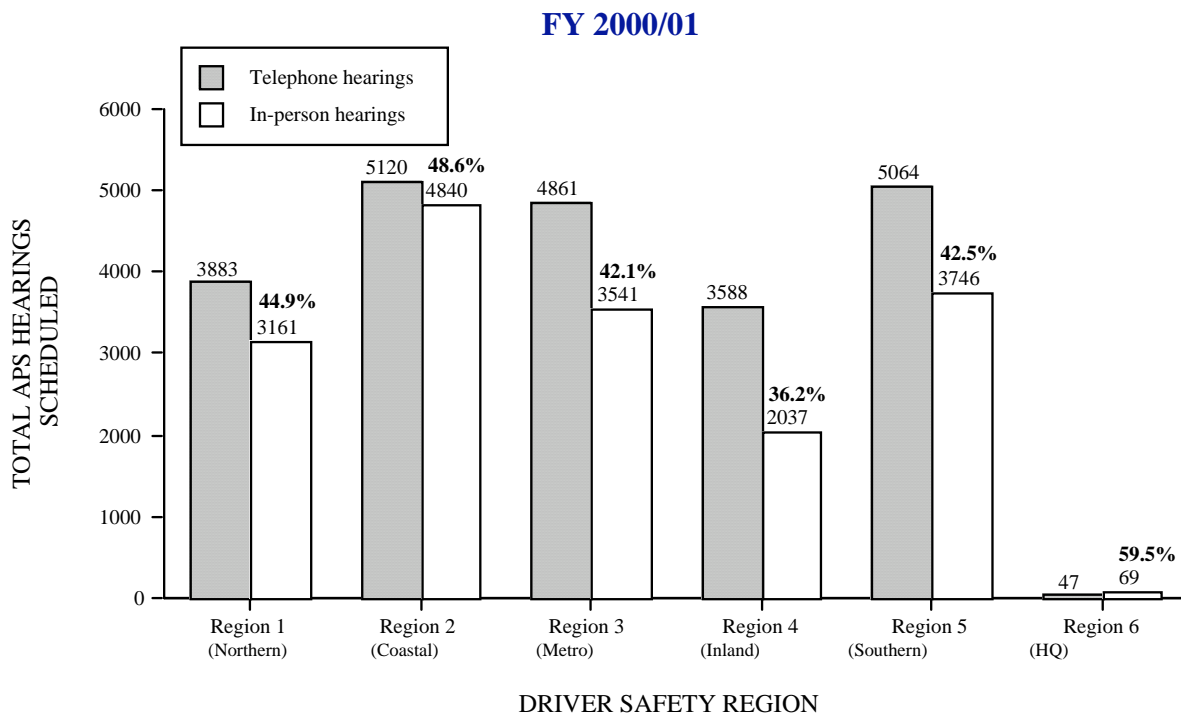
**Figure 7a.3.** Total APS Type 4 (In-person) and Type 7 (Telephone) hearings scheduled and percentage in-person by Region, FY 97/98.



**Figure 7a.4.** Total APS Type 4 (In-person) and Type 7 (Telephone) hearings scheduled and percentage in-person by Region, FY 98/99.



**Figure 7a.5.** Total APS Type 4 (In-person) and Type 7 (Telephone) hearings scheduled and percentage in-person by Region, FY 99/00.

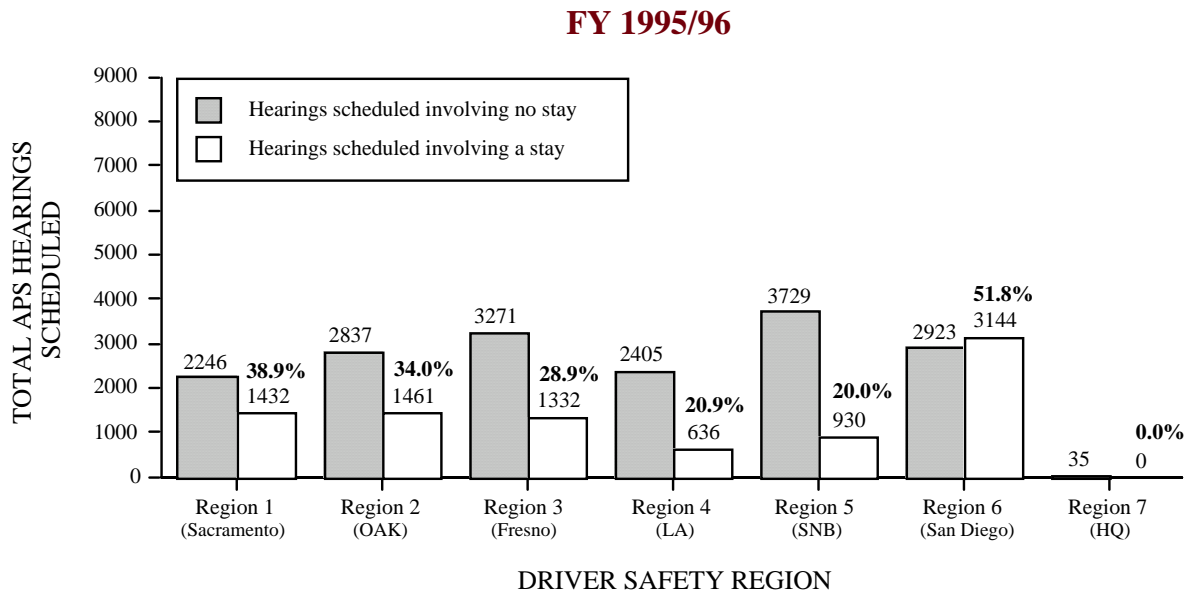


**Figure 7a.6.** Total APS Type 4 (In-person) and Type 7 (Telephone) hearings scheduled and percentage in-person by Region, FY 00/01.

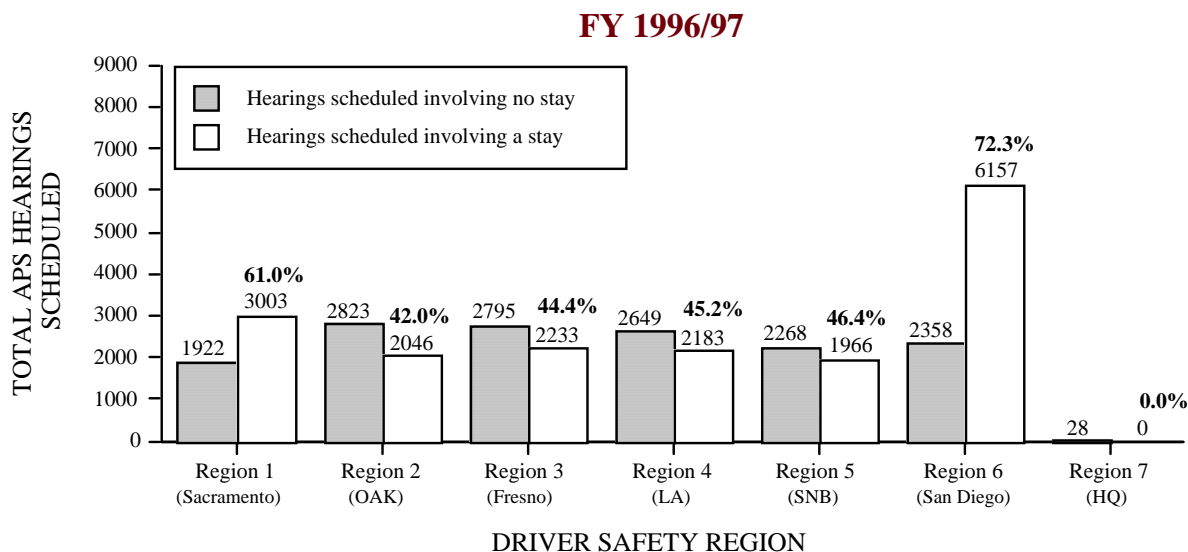


- Of total APS hearings held each year in each Driver Safety region, the San Bernardino/Inland Region has consistently held proportionately more telephone hearings than has any of the other regions. Of total hearings held in each region, the Oakland/Coastal region has held proportionately fewer telephone hearings than did any of the other regions. In FY 00/01, 63% of the hearings held in the Inland Region were telephone hearings compared with 51% held in the Coastal Region.

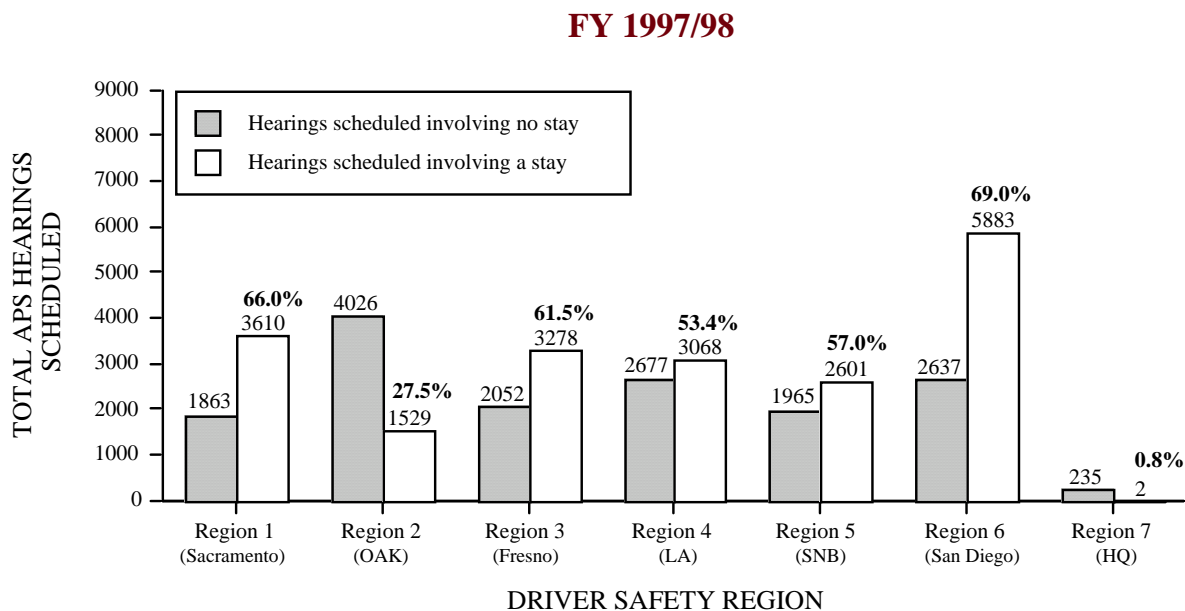
### **Section 7b: Scheduled Hearings by Stay Status by Region**



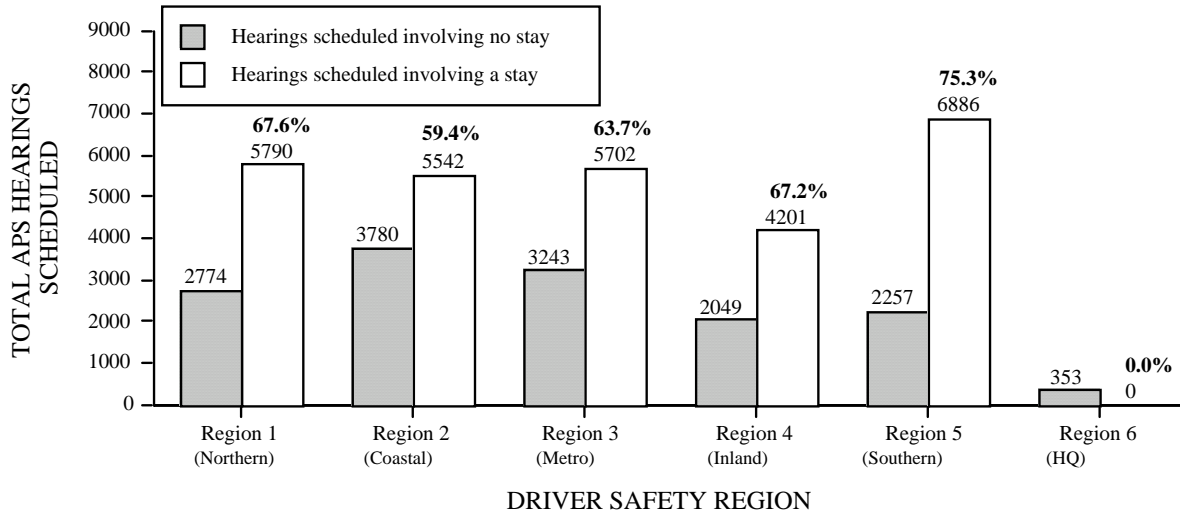
**Figure 7b.1.** Total APS hearings scheduled by stay status (stay or no stay of the action prior to a hearing) and percentage involving a stay by Region, FY 95/96.



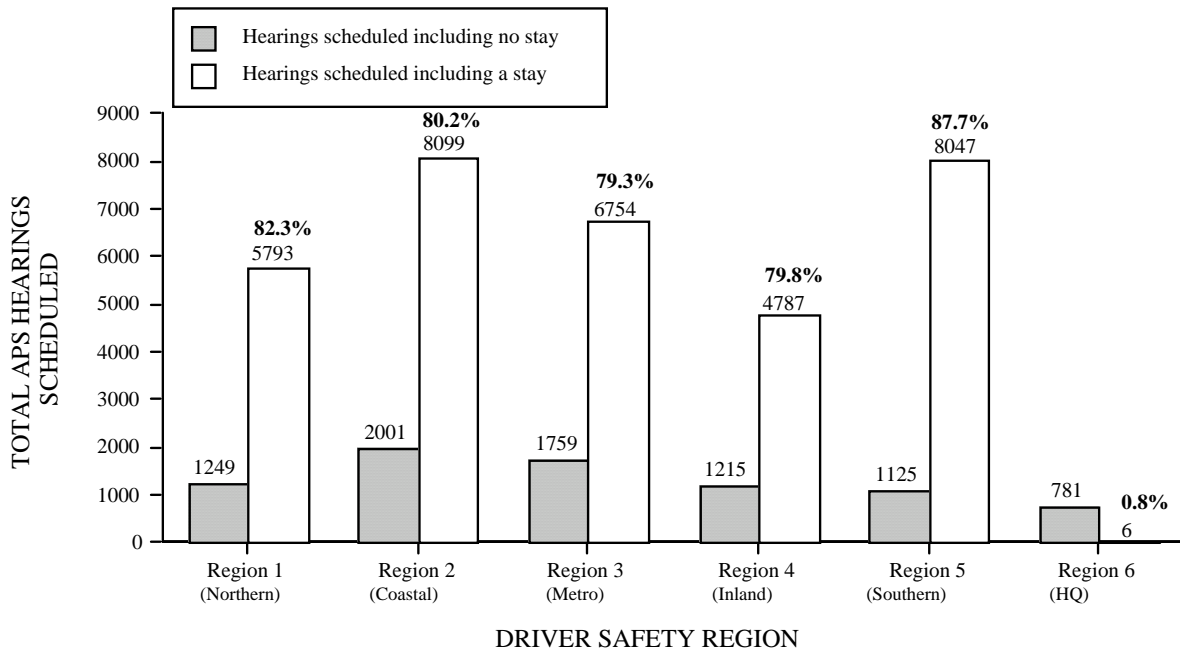
**Figure 7b.2.** Total APS hearings scheduled by stay status (stay or no stay of the action prior to a hearing) and percentage involving a stay by Region, FY 96/97.



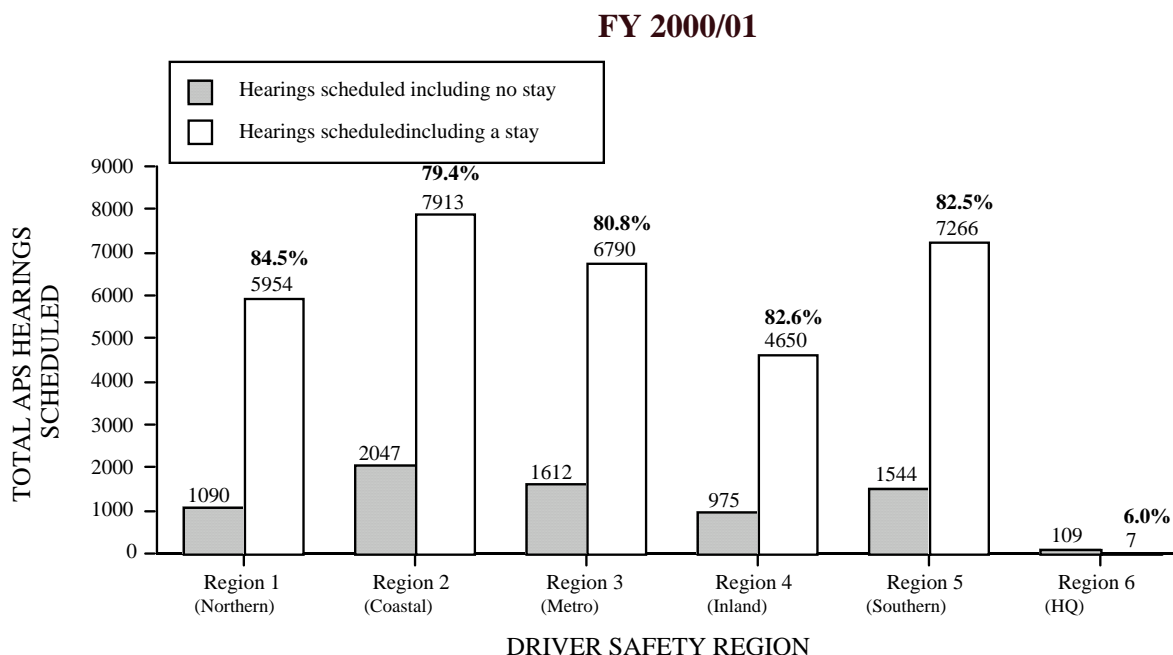
**Figure 7b.3.** Total APS hearings scheduled by stay status (stay or no stay of the action prior to a hearing) and percentage involving a stay by Region, FY 97/98.

**FY 1998/99**

**Figure 7b.4.** Total APS hearings scheduled by stay status (stay or no stay of the action prior to a hearing) and percentage involving a stay by Region, FY 98/99.

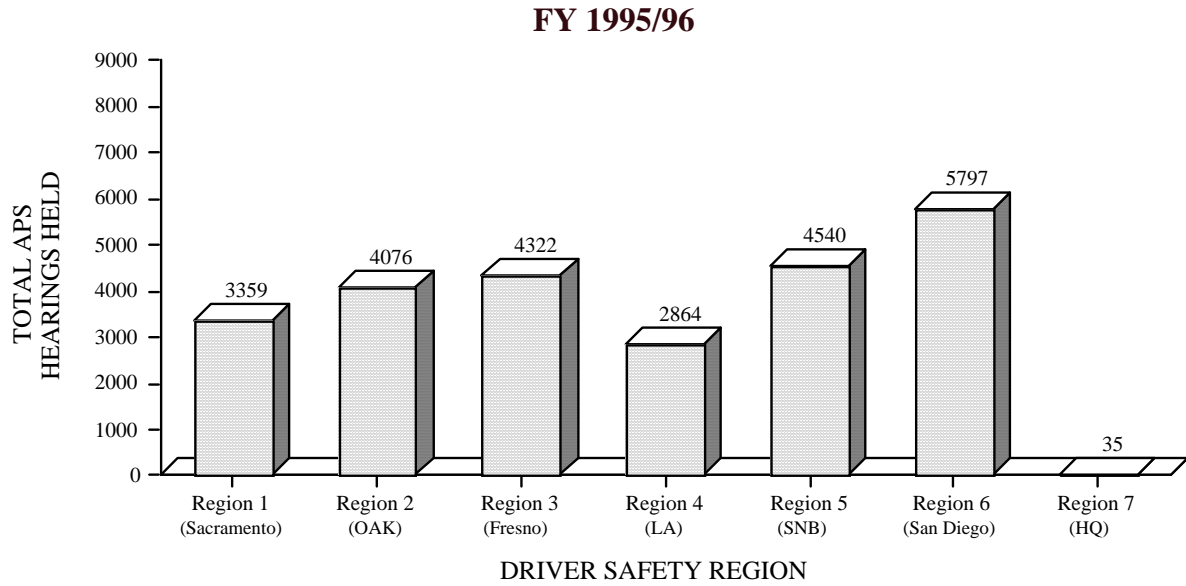
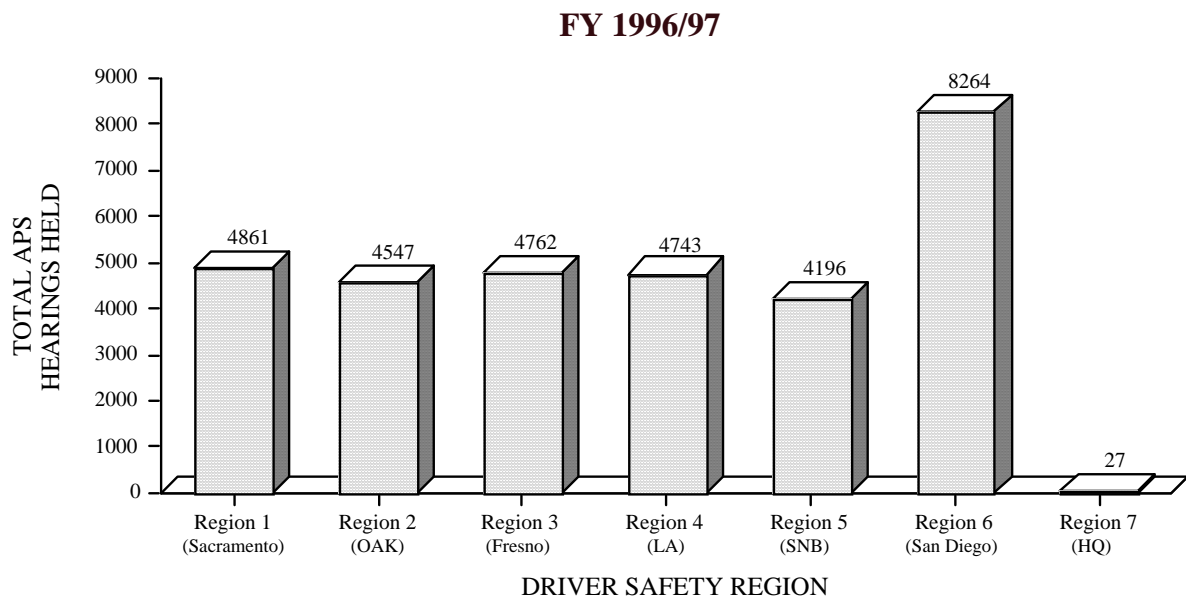
**FY 1999/00**

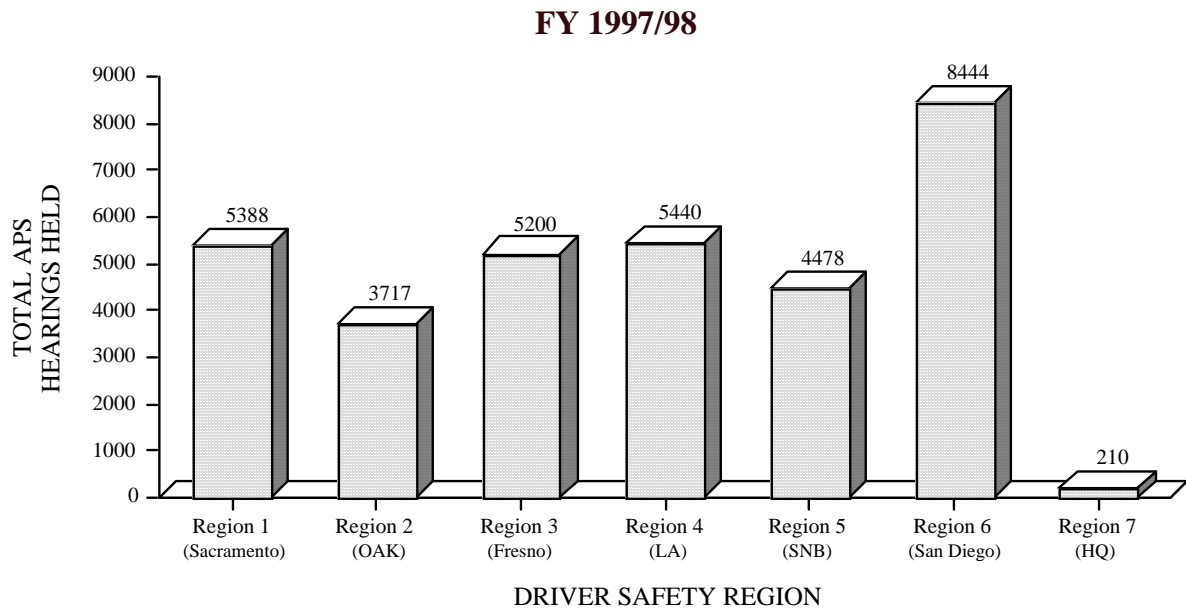
**Figure 7b.5.** Total APS hearings scheduled by stay status (stay or no stay of the action prior to a hearing) and percentage involving a stay by Region, FY 99/00.



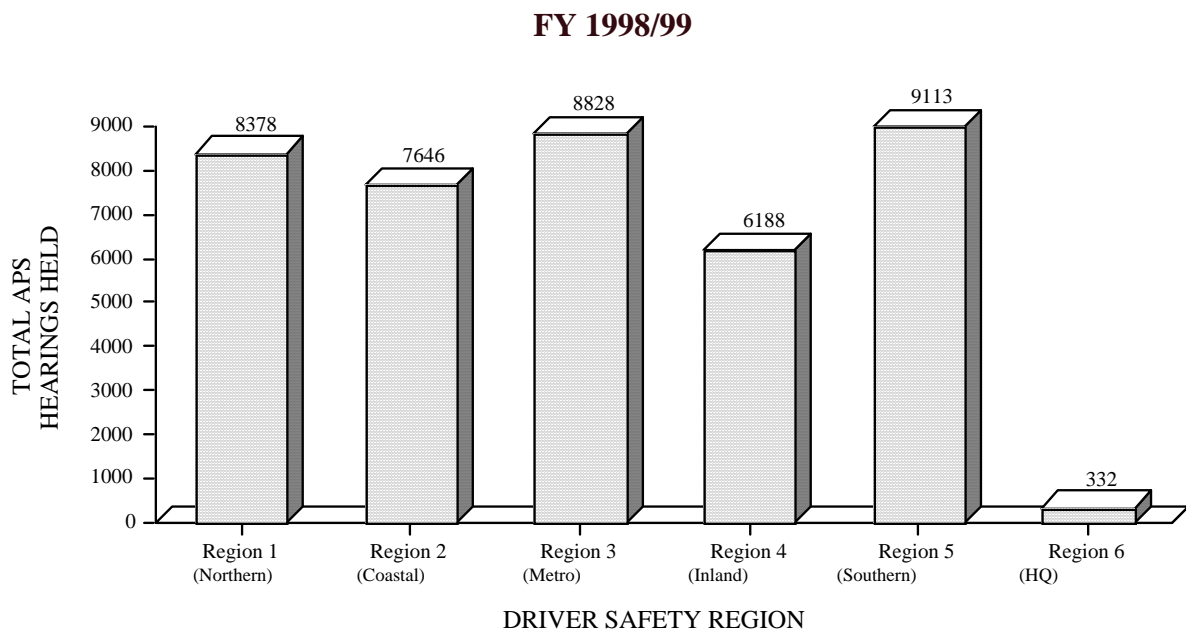
**Figure 7b.6.** Total APS hearings scheduled by stay status (stay or no stay of the action prior to a hearing) and percentage involving a stay by Region, FY 00/01.

- With one exception, Figures 7b.1 through 7b.6 show that there was a steady increase each year in each region in the number of APS hearings resulting in a stay of the APS action. The single exception is in FY 97/98, Region 2 showed a decrease in the number of actions stayed prior to conducting a hearing. However, each year thereafter Region 2 showed substantial increases in stayed cases commensurate with the rest of the state.
- With one exception, in each year shown, the San Diego/Southern Region had a substantially greater volume and greater proportion of stayed actions than did the other regions. The single exception is in FY 00/01, where the Northern Region had a greater proportion of their total APS hearings resulting in a stay than did the Southern Region (although the Northern Region's total volume of stayed cases was less than in the Southern Region).
- These figures show that stays increased sharply in all of the regions in FY 98/99 and that increase continued to escalate each year thereafter.

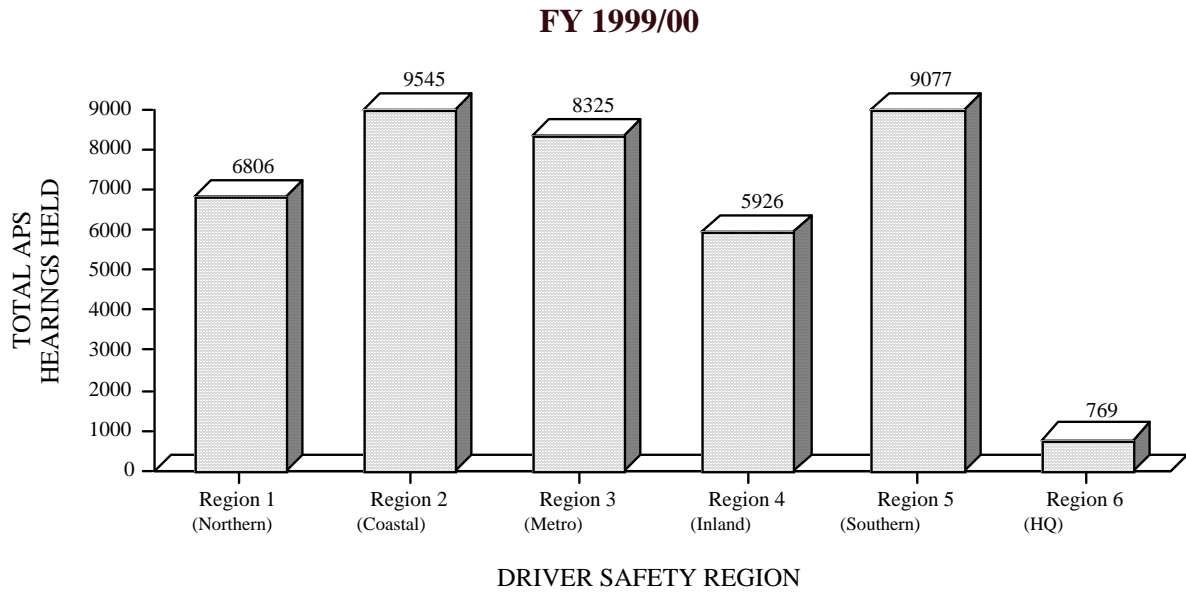
**Section 7c: Total APS Hearings by Region****Figure 7c.1.** Total APS hearings held by Region, FY 95/96.**Figure 7c.2.** Total APS hearings held by Region, FY 96/97.



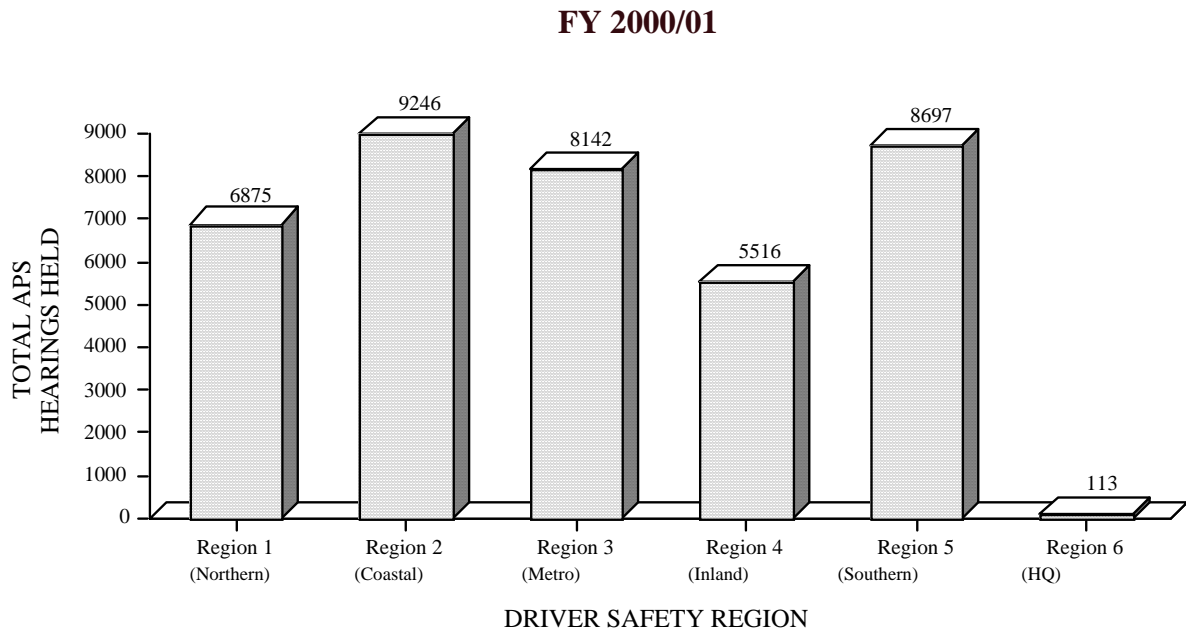
**Figure 7c.3.** Total APS hearings held by Region, FY 97/98.



**Figure 7c.4.** Total APS hearings held by Region, FY 98/99.



**Figure 7c.5.** Total APS hearings held by Region, FY 99/00.



**Figure 7c.6.** Total APS hearings held by Region, FY 00/01.

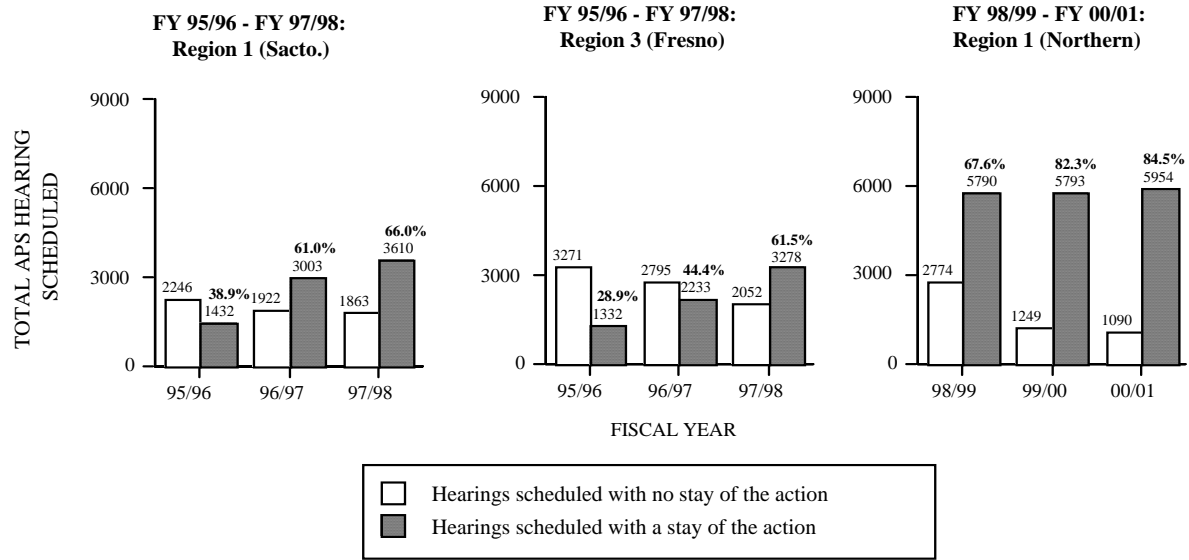
- Data is available by Driver Safety Region for these variables from FY 95/96. Statewide APS hearing totals are presented above under Section 3. Those data are available from the start of the APS law in FY 90/91. Telephone hearings were introduced in FY 92/93.
- There was a sharp increase in total hearings held in each region in FY 98/99. This increase in FY 98/99 can also be seen in Figure 3a.1 showing statewide total APS hearings scheduled and held.
- Of all the regions, the Coastal Region has had the largest increase in total hearings held since FY 98/99. Initially, in FY 98/99, this can partially be explained by the restructuring of the Driver Safety regions. It is noteworthy that beginning in FY 99/00, the Coastal Region surpassed all other regions in total number of APS hearings held and remained at this higher volume in FY 00/01.

#### **Section 7d: Stayed Versus Nonstayed Hearings Scheduled by Region by Year**

- In Figures 7d.1 through 7f.6, below, comparisons between the former Sacramento or Fresno regions of FY 95/96 through FY/97/98 and the current Northern region should be made with caution since the former regions included fewer hearing points than does the Northern Region formed in FY 98/99. This same caution is offered regarding comparisons between the Oakland or Fresno regions of FY 95/96 through FY/97/98 and the Coastal Region formed in FY 98/99. This also applies to comparisons between Fresno or LA regions of FY 95/96 through FY 97/98 and the Metro Region formed in FY 98/99.

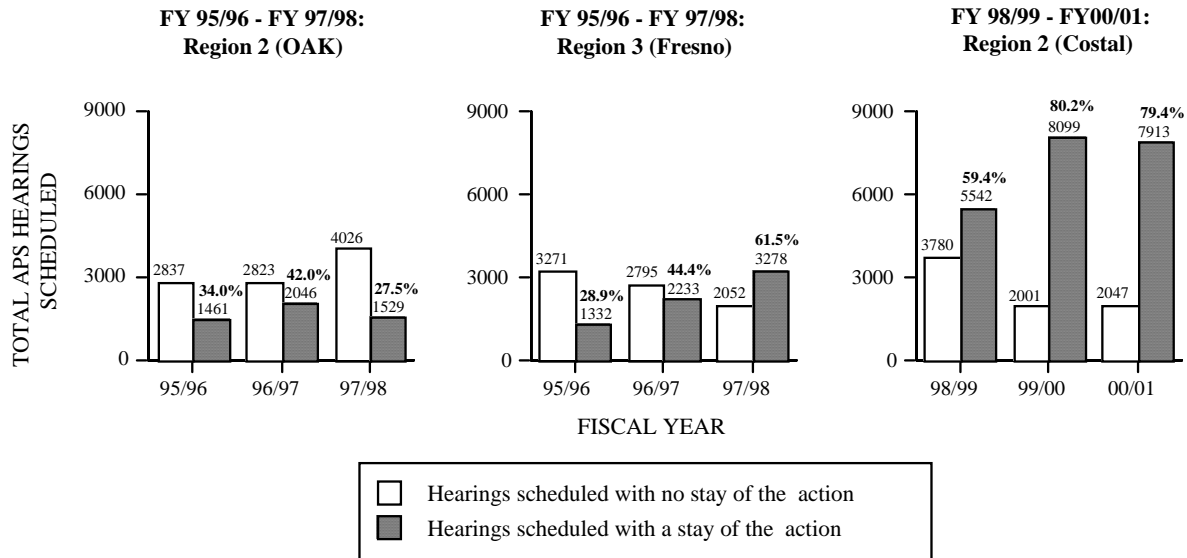


## Sacramento/Northern Region



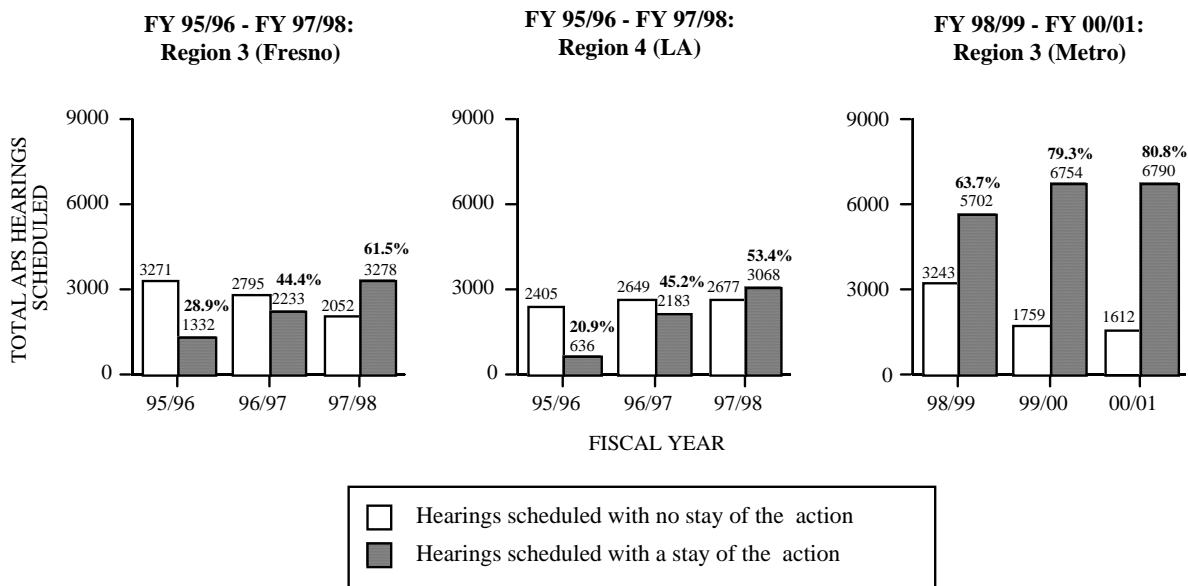
**Figure 7d.1.** Total APS hearings scheduled (including zero tolerance and refusal cases) by stay versus no stay and percentage stayed, Sacramento/Northern Region, FY 95/96 through FY 00/01.

## Oakland/Coastal Region



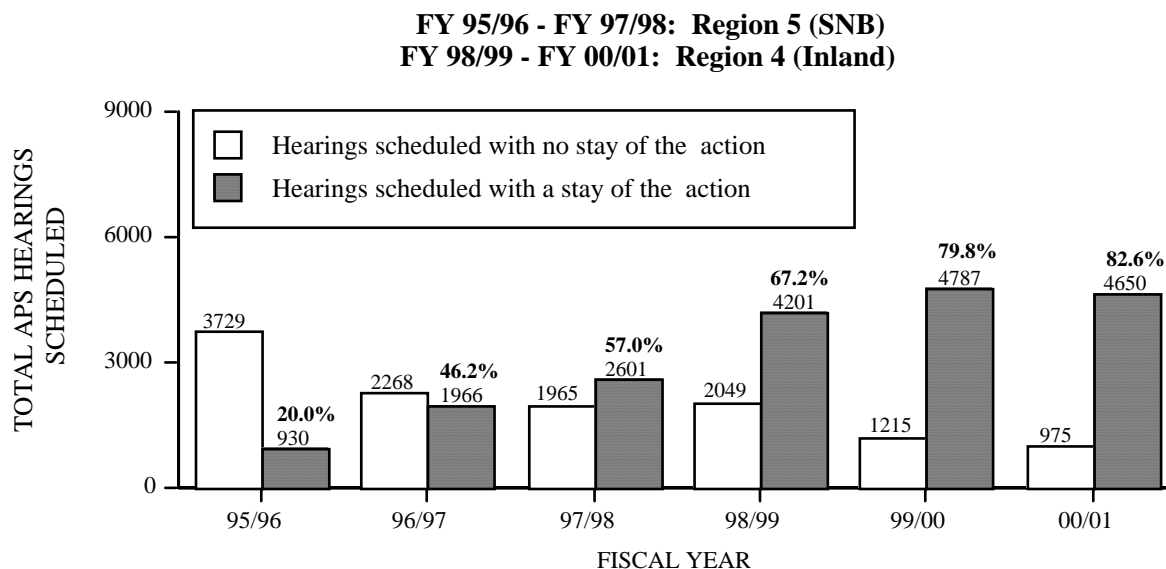
**Figure 7d.2.** Total APS hearings scheduled (including zero tolerance and refusal cases) by stay versus no stay and percentage stayed, Oakland/Coastal Region, FY 95/96 through FY 00/01.

## Los Angeles/Metro Region



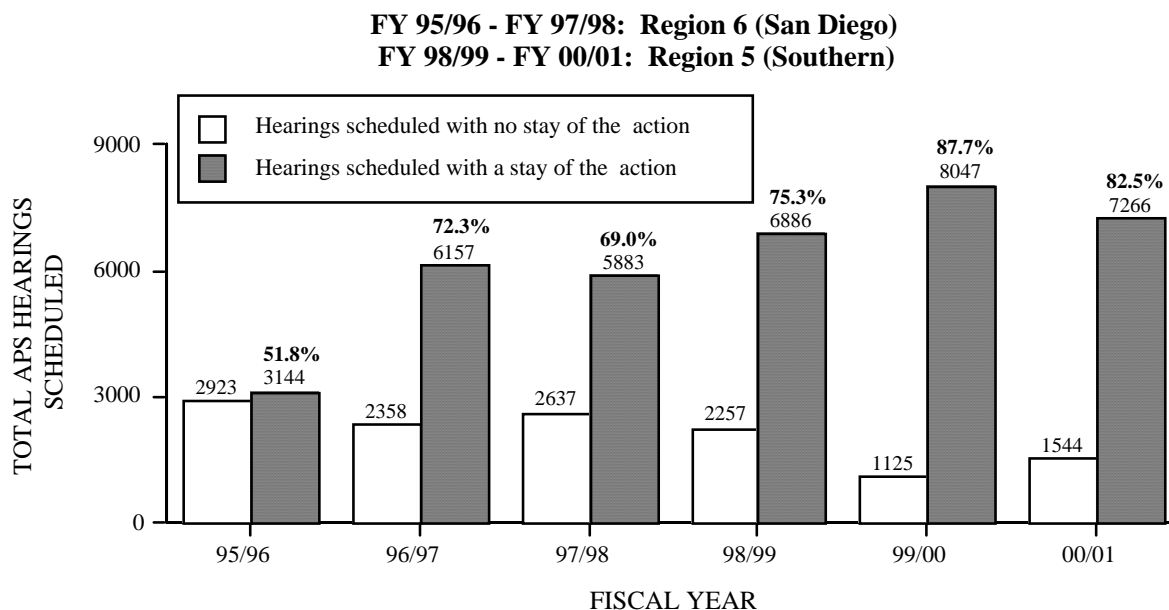
**Figure 7d.3.** Total APS hearings scheduled (including zero tolerance and refusal cases) by stay versus no stay and percentage stayed, Los Angeles/Metro Region, FY 95/96 through FY 00/01.

## San Bernardino/Inland Region



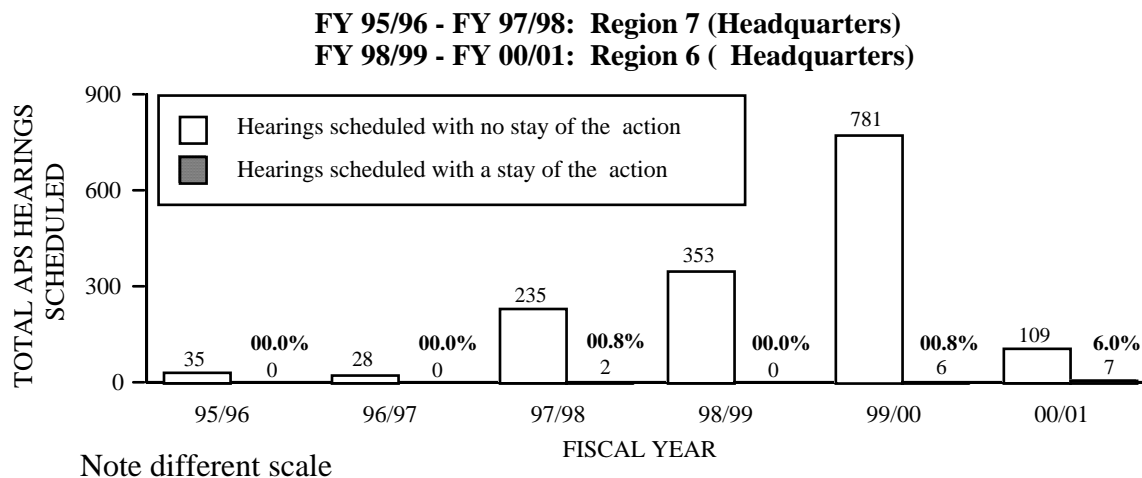
**Figure 7d.4.** Total APS hearings scheduled (including zero tolerance and refusal cases) by stay versus no stay and percentage stayed, San Bernardino/Inland Region, FY 95/96 through FY 00/01.

## San Diego/Southern Region



**Figure 7d.5.** Total APS hearings scheduled (including zero tolerance and refusal cases) by stay versus no stay and percentage stayed, San Diego/Southern Region, FY 95/96 through FY 00/01.

## Headquarters Region

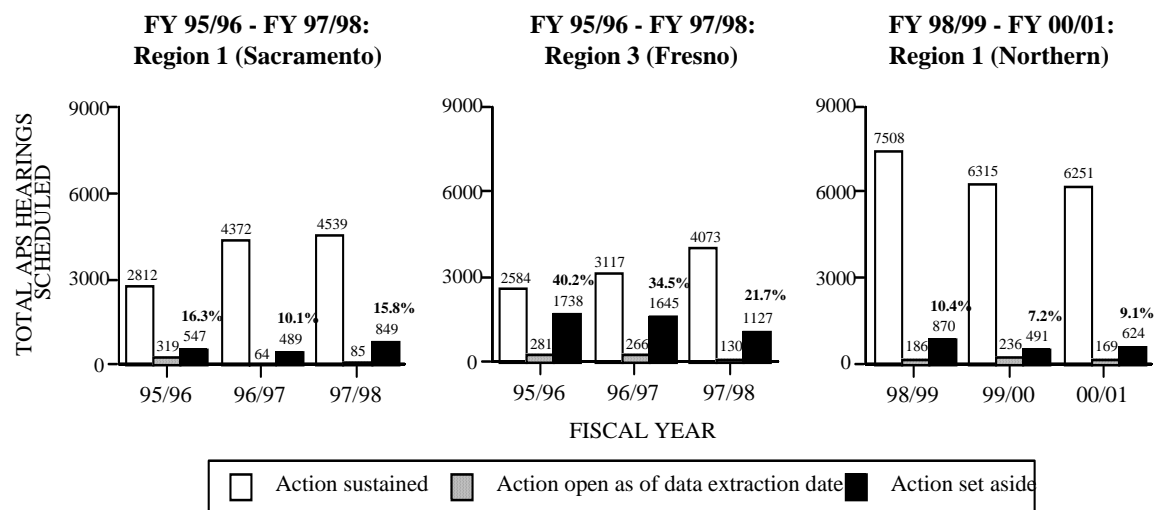


**Figure 7d.6.** Total APS hearings scheduled (including zero tolerance and refusal cases) by stay versus no stay and percentage stayed, Headquarters Region, FY 95/96 through FY 00/01.

- While the San Diego/Southern Region consistently had large volumes of stayed actions each year, the largest percentage increase occurred in the Coastal Region, which showed a 46% increase in stays from FY 98/99 to FY 99/00.

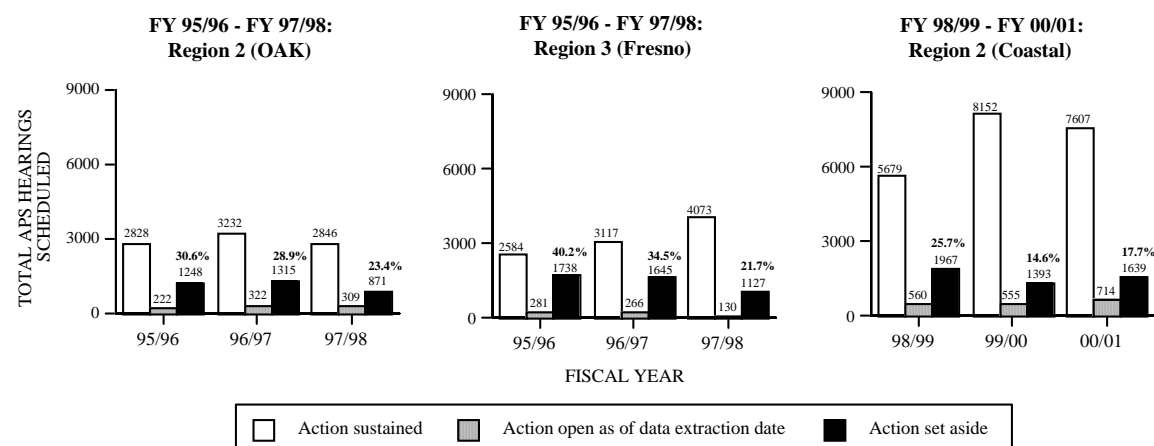
## Section 7e: Total APS Hearing Outcomes by Region by Year

### Sacramento/Northern Region



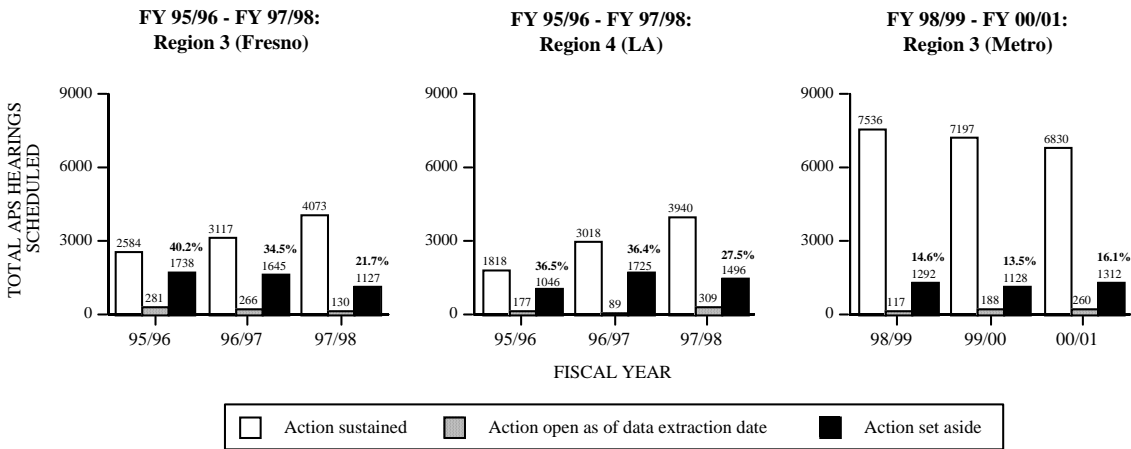
**Figure 7e.1.** Hearing outcomes (action sustained, open, or set aside) and percentage set aside, Sacramento/Northern Region, FY 95/96 through FY 00/01. Includes zero tolerance and refusal cases.

### Oakland-San Francisco/Coastal Region



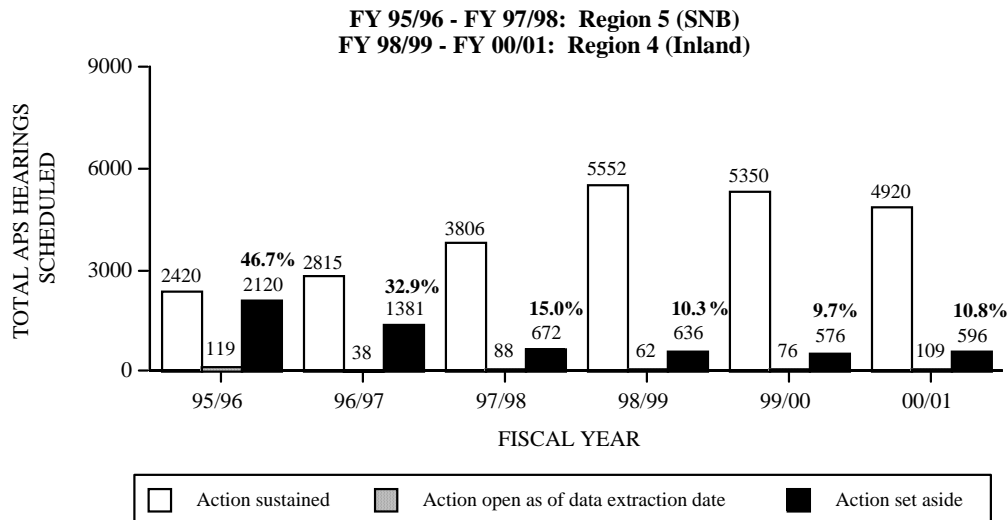
**Figure 7e.2.** Hearing outcomes (action sustained, open, or set aside) and percentage set aside, Oakland/Coastal Region, FY 95/96 through FY 00/01. Includes zero tolerance and refusal cases.

## Los Angeles/Metro Region



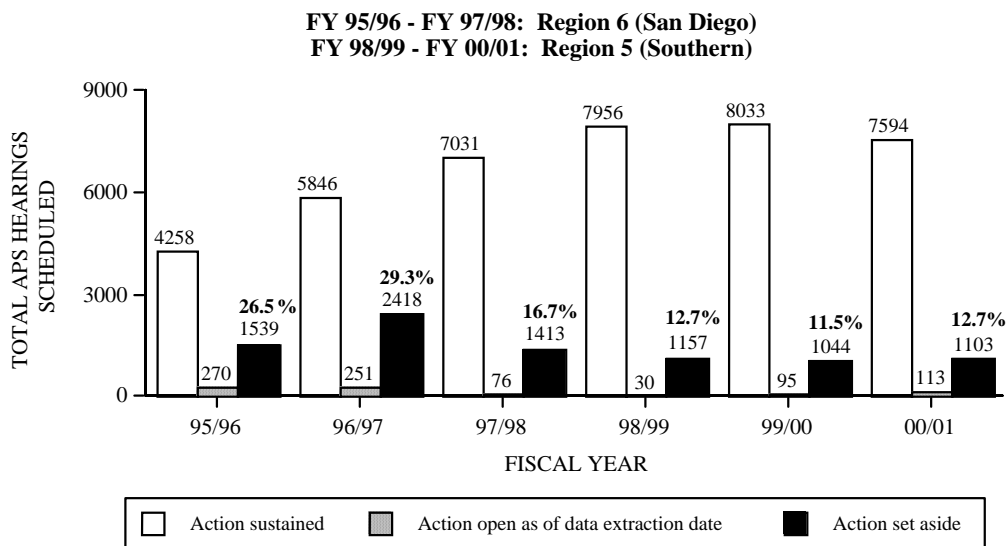
**Figure 7e.3.** Hearing outcomes (action sustained, open, or set aside) and percentage set aside, Los Angeles/Metro Region, FY 95/96 through FY 00/01. Includes zero tolerance and refusal cases.

## San Bernardino/Inland Region



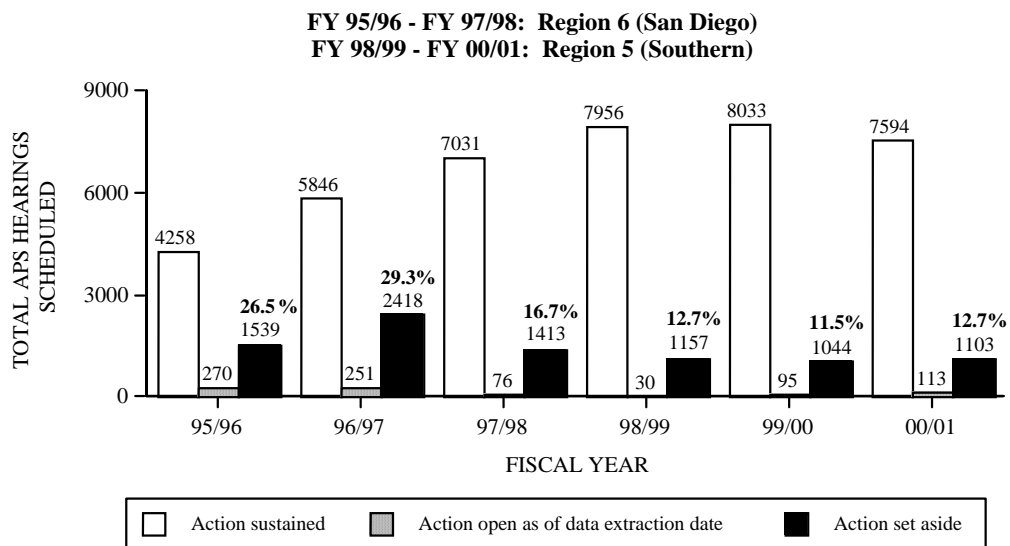
**Figure 7e.4.** Hearing outcomes (action sustained, open, or set aside) and percentage set aside, San Bernardino/Inland Region, FY 95/96 through FY 00/01. Includes zero tolerance and refusal cases.

## San Diego/Southern Region



**Figure 7e.5.** Hearing outcomes (action sustained, open, or set aside) and percentage set aside, San Diego/Southern Region, FY 95/96 through FY 00/01. Includes zero tolerance and refusal cases.

## Headquarters Region

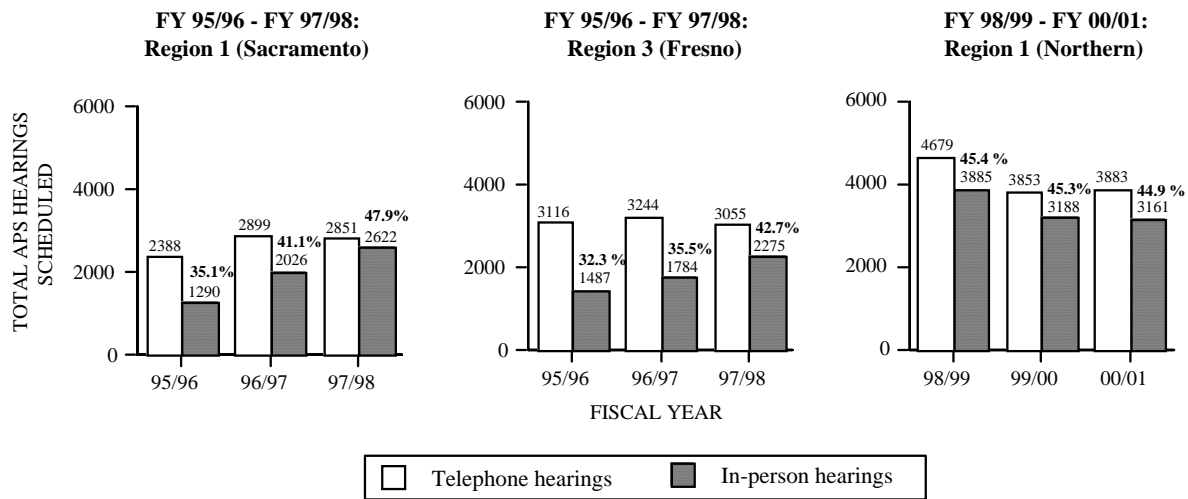


**Figure 7e.6.** Hearing outcomes (action sustained, open, or set aside) and percentage set aside, Headquarters Region, FY 95/96 through FY 00/01. Includes zero tolerance and refusal cases.

- With the exception of the Northern Region, where there was a slight increase in APS hearings completed between FY 99/00 and FY 00/01, all of the other regions completed fewer total APS hearings in FY 00/01 than in FY 99/00. In addition, proportionately more of the completed hearings resulted in a set aside in each region in FY 00/01 than in FY 99/00.

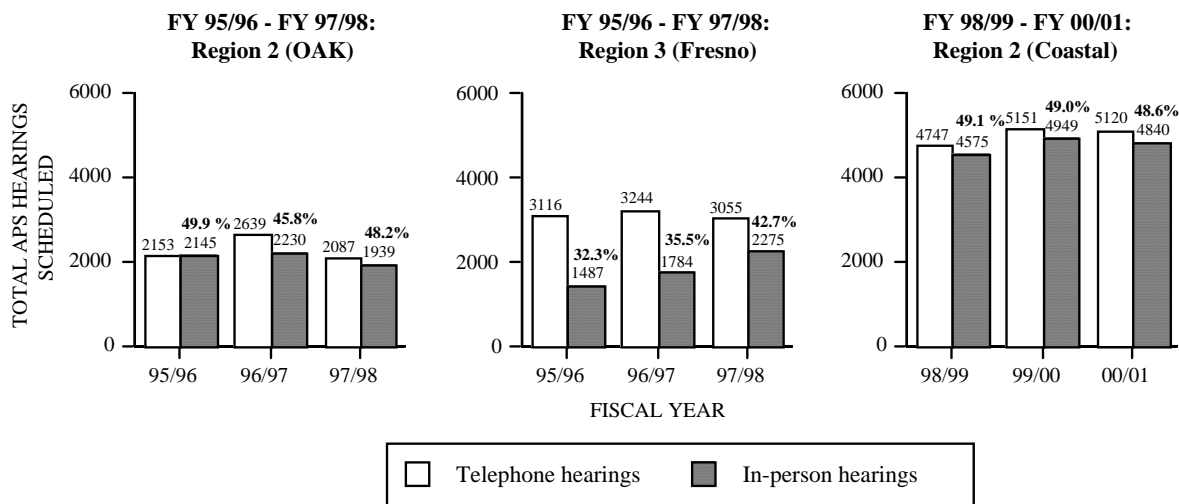
## **Section 7f: Type of Hearing by Region by Year**

### **Sacramento/Northern Region**



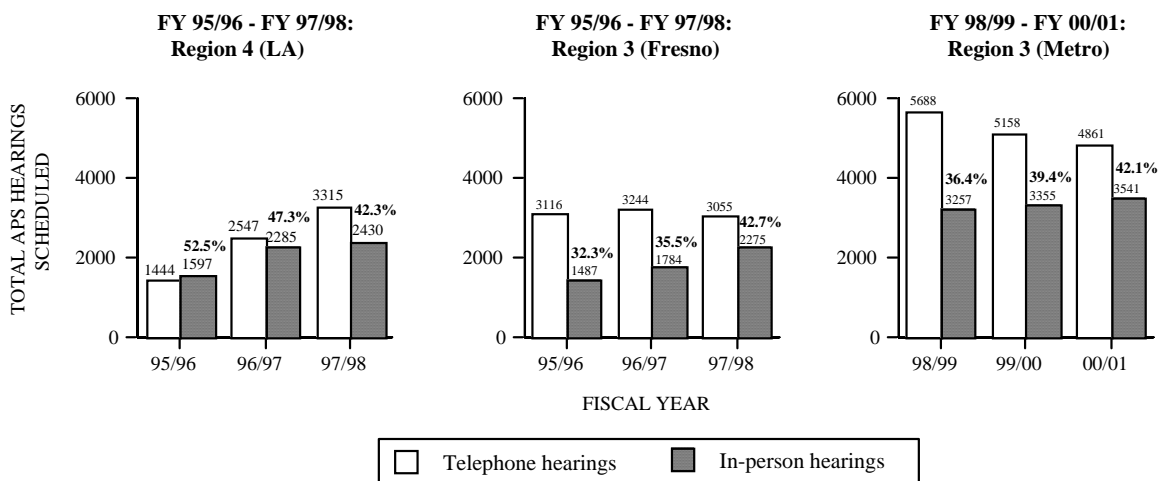
**Figure 7f.1.** Total APS Type 4 (In-person) and Type 7 (Telephone) hearings scheduled and percentage in-person in the Sacramento/Northern Region, FY 95/96 through FY 00/01. Includes zero tolerance and refusal cases.

## Oakland/Coastal Region



**Figure 7f.2.** Total APS Type 4 (In-person) and Type 7 (Telephone) hearings scheduled and percentage in-person in the Oakland/Coastal Region, FY 95/96 through FY 00/01. Includes zero tolerance and refusal cases.

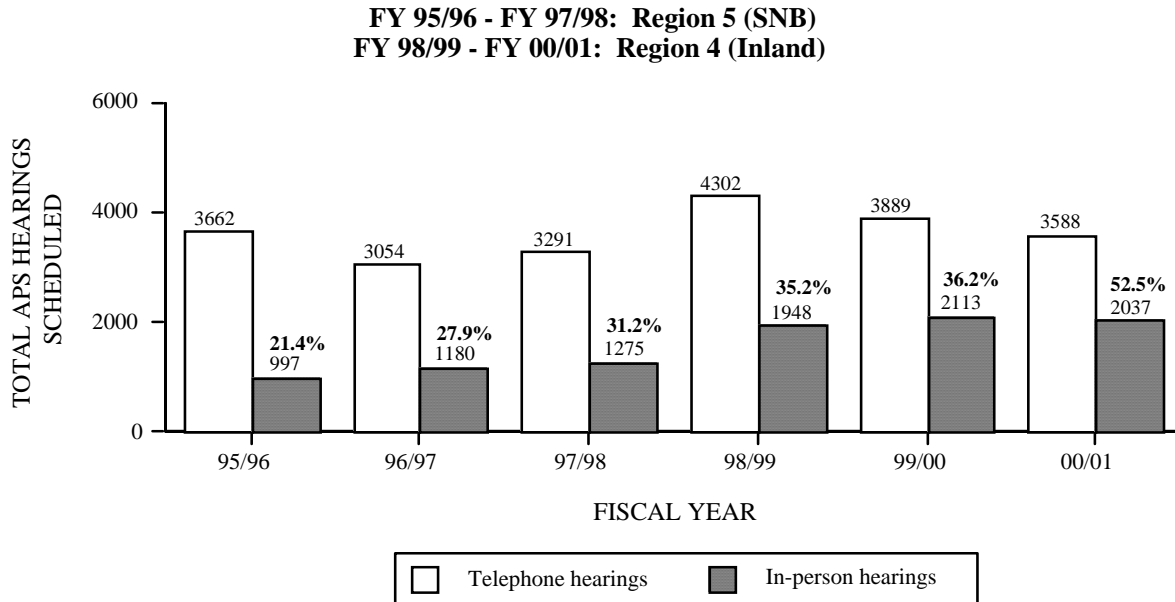
## Los Angeles/Metro Region



**Figure 7f.3.** Total APS Type 4 (In-person) and Type 7 (Telephone) hearings scheduled and percentage in-person in the Los Angeles/Metro Region, FY 95/96 through FY 00/01. Includes zero tolerance and refusal cases.

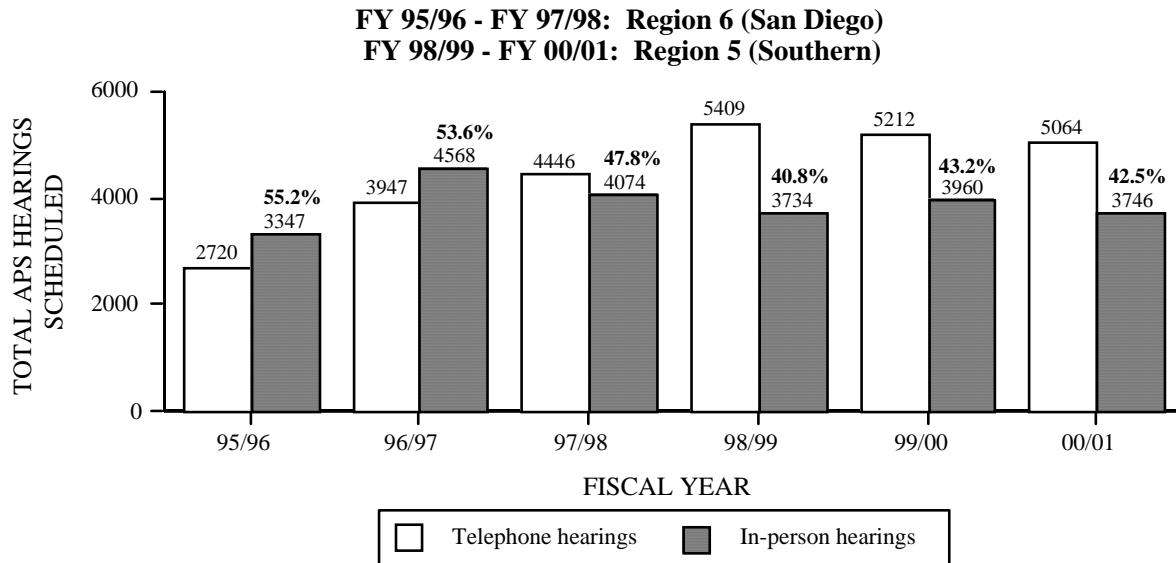


### San Bernardino/Inland Region



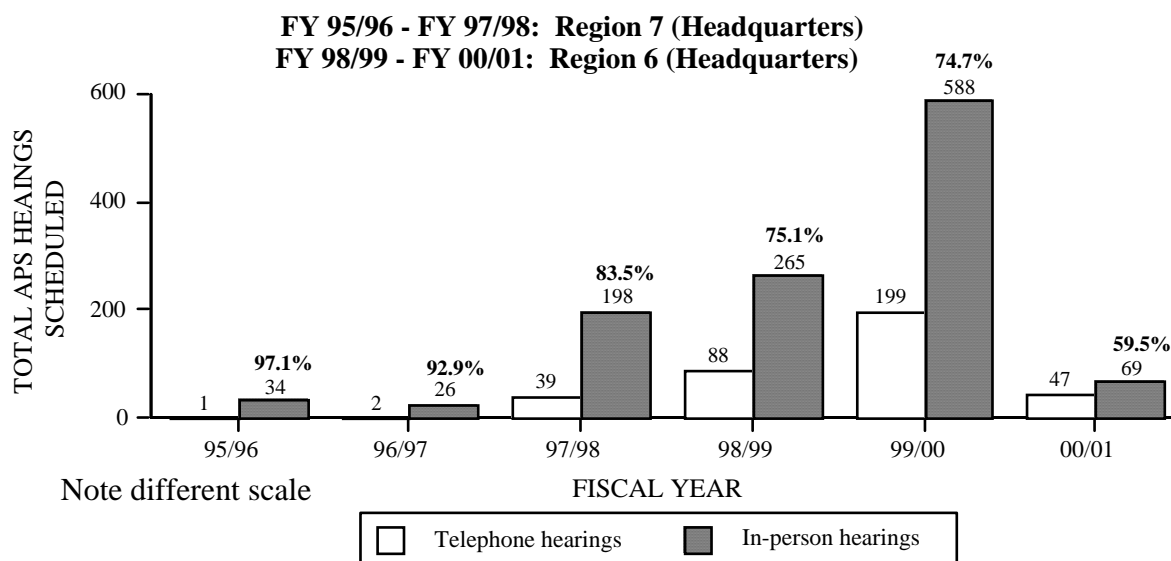
**Figure 7f.4.** Total APS Type 4 (In-person) and Type 7 (Telephone) hearings scheduled and percentage in-person in the San Bernardino/Inland Region, FY 95/96 through FY 00/01. Includes zero tolerance and refusal cases.

### San Diego/Southern Region



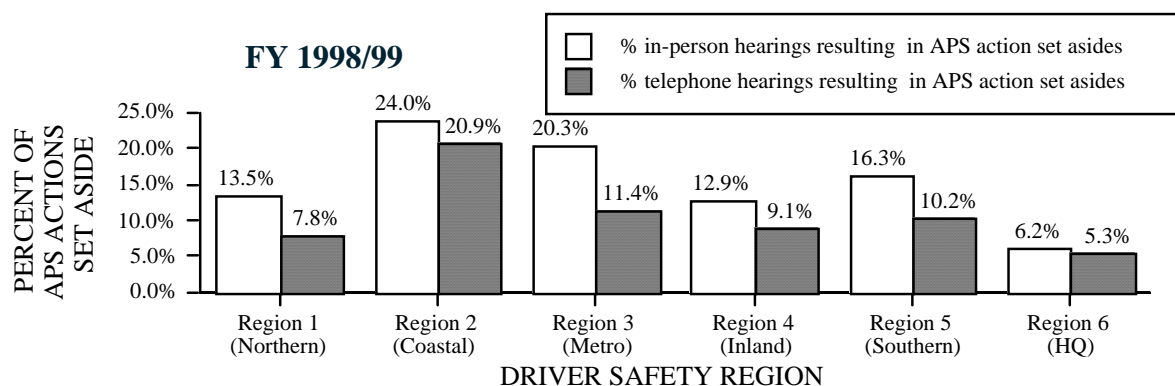
**Figure 7f.5.** Total APS Type 4 (In-person) and Type 7 (Telephone) hearings scheduled and percentage in-person in the San Diego/Southern Region, FY 95/96 through FY 00/01. Includes zero tolerance and refusal cases.

## Headquarters Region

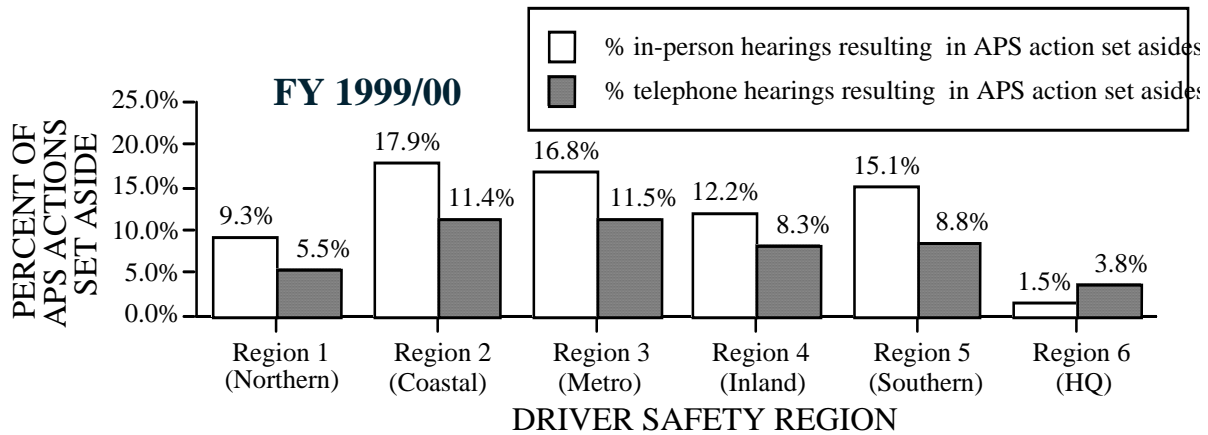


**Figure 7f.6.** Total APS Type 4 (In-person) and Type 7 (Telephone) hearings scheduled and percentage in-person in the Headquarters Region, FY 95/96 through FY 00/01. Includes zero tolerance and refusal cases.

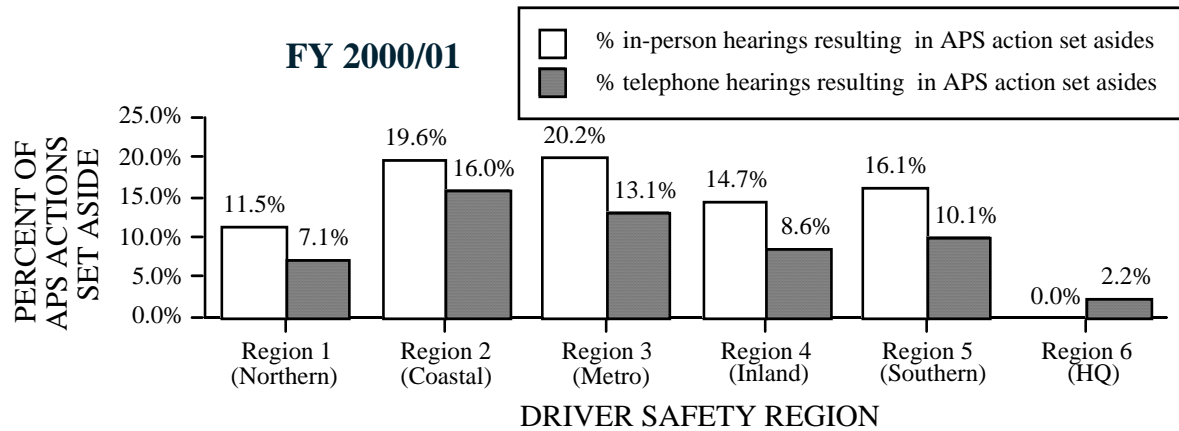
## Section 7g: Percent of Hearings Resulting in Setting Aside APS Actions by Hearing Type or Status by Region



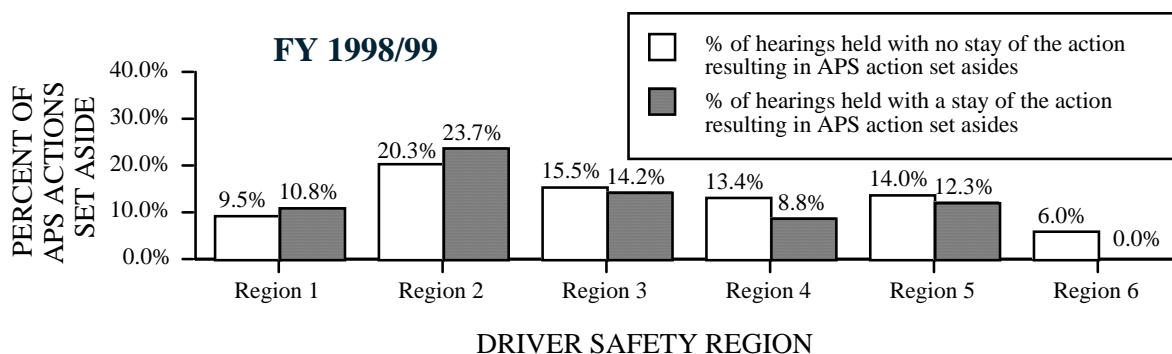
**Figure 7g.1.** Percentage of Type 4 (In-person) and Type 7 Telephone) hearings held resulting in a decision to set aside the APS action by Region, FY 98/99.



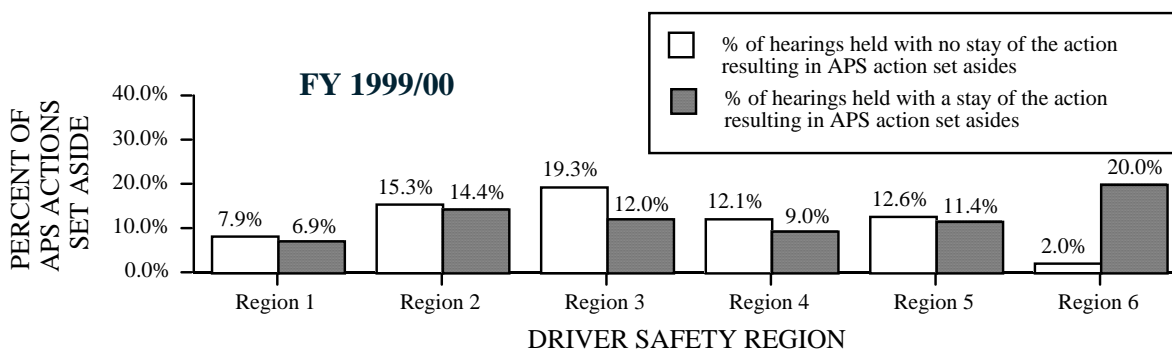
**Figure 7g.2.** Percentage of Type 4 (In-person) and Type 7 Telephone) hearings held resulting in a decision to set aside the APS action by Region, FY 99/00.



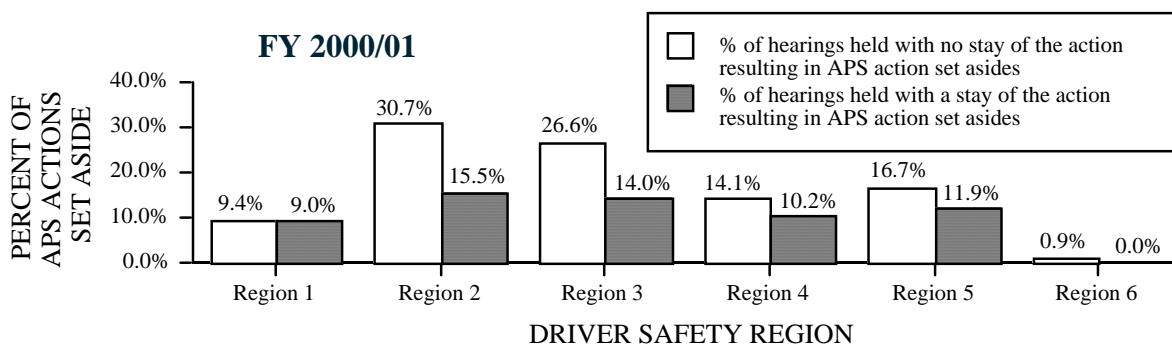
**Figure 7g.3.** Percentage of Type 4 (In-person) and Type 7 Telephone) hearings held resulting in a decision to set aside the APS action by Region, FY 00/01.



**Figure 7g.4.** Percent of APS hearings held by stay status (stay versus no stay of the action) resulting in a decision to set aside the originating APS action by Region, FY 98/99.

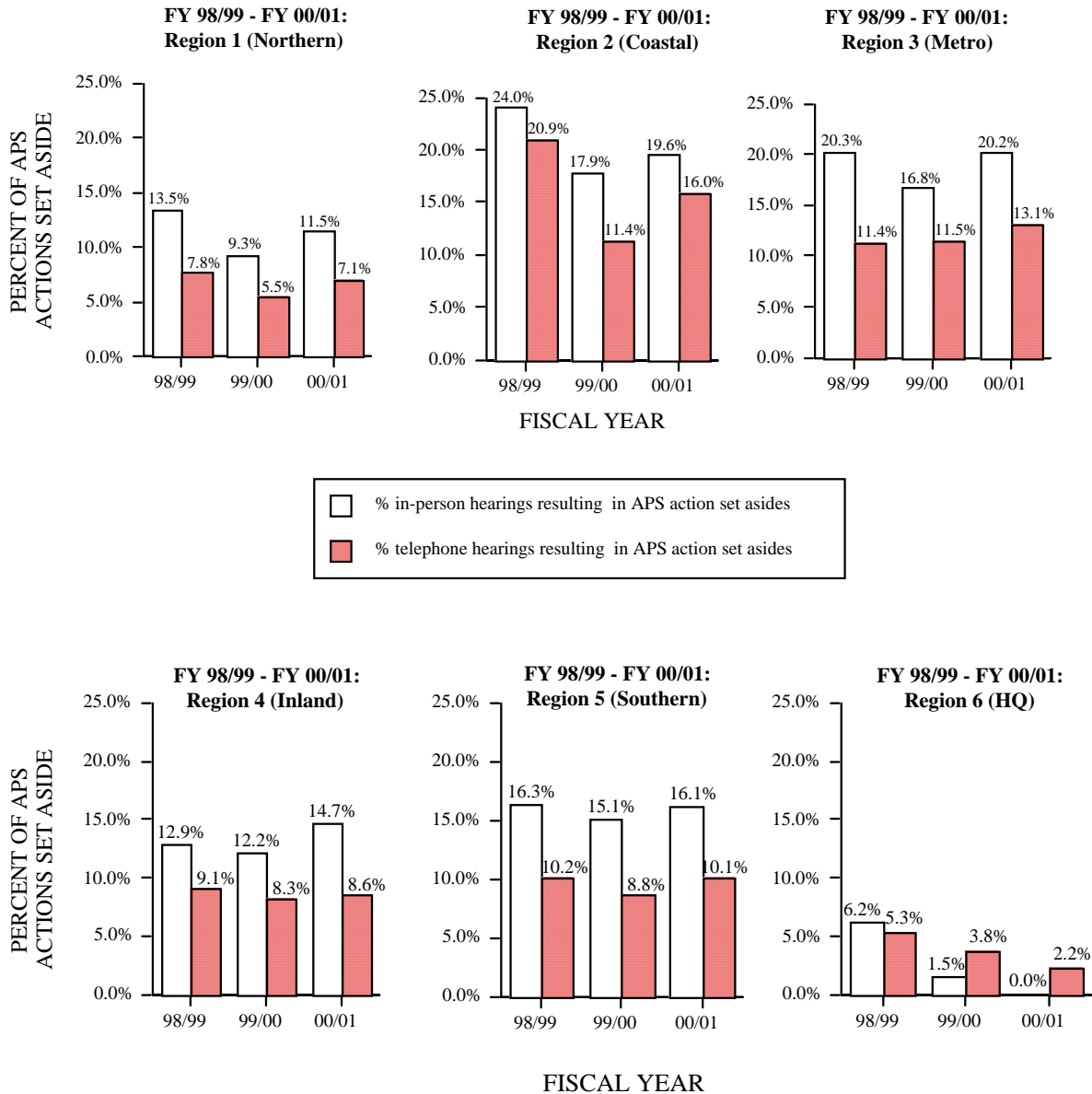


**Figure 7g.5.** Percent of APS hearings held by stay status (stay versus no stay of the action) resulting in a decision to set aside the originating APS action by Region, FY 99/00.



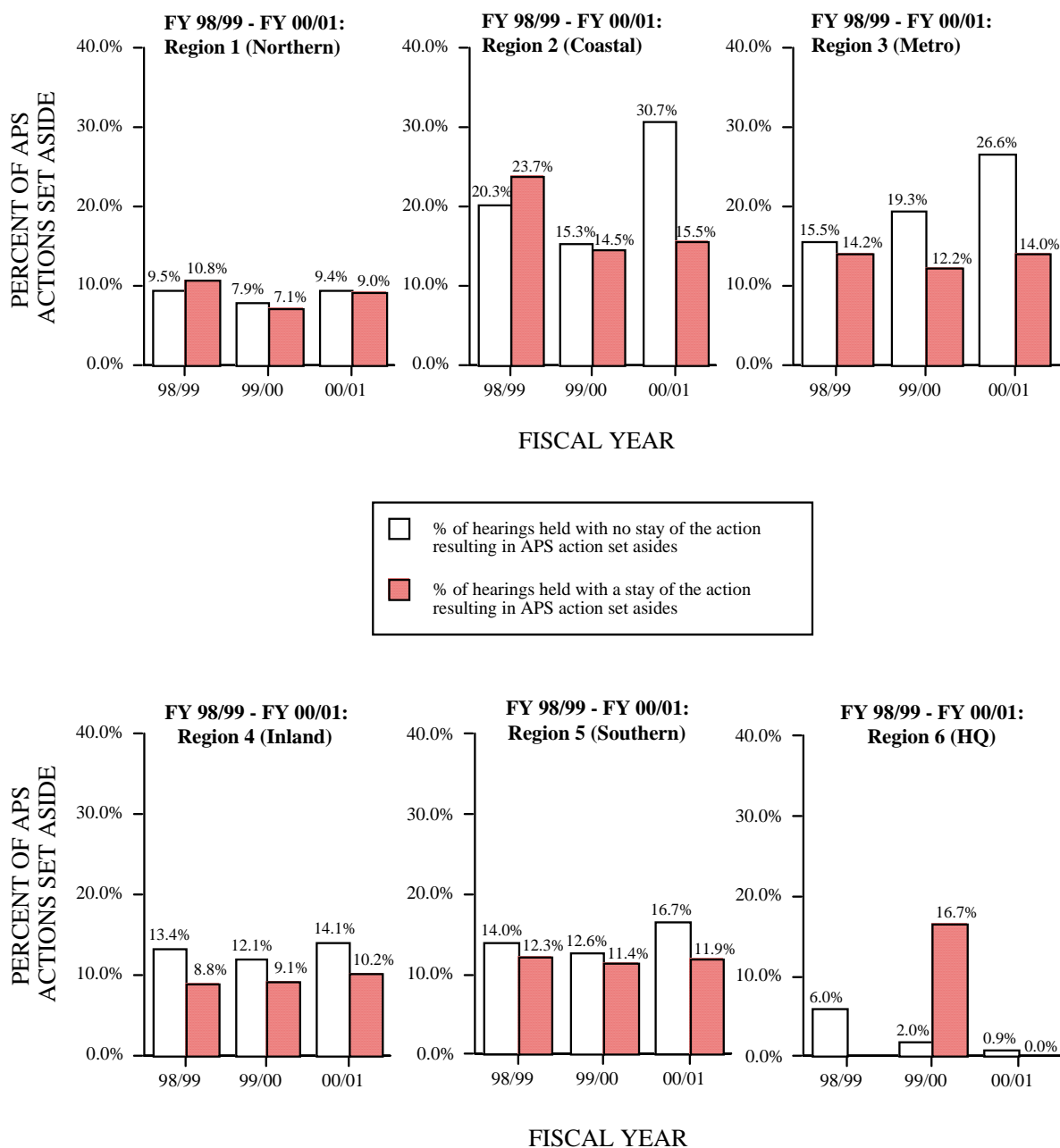
**Figure 7g.6.** Percent of APS hearings held by stay status (stay versus no stay of the action) resulting in a decision to set aside the originating APS action by Region, FY 00/01.

### Section 7h: Percent of Hearings Resulting in Setting Aside APS Actions by Hearing Type or Status by Region Across Years



**Figure 7h.1:** Percent of Type 4 (In-person) and Type 7 (Telephone) APS hearings held resulting in a decision to set aside the originating APS action by Region, FY 98/99 through FY 00/01.

- With the exception of Headquarters, in each region consistently more in-person hearing contacts have resulted in a decision to set aside the action than have telephone hearing contacts. This is consistent with the statewide differences shown in Figure 3b.3.



**Figure 7h.2** Percent of APS hearings held by stay status (stay versus no stay of the action) resulting in a decision to set aside the originating APS action by Region, FY 98/99 through FY 00/01.

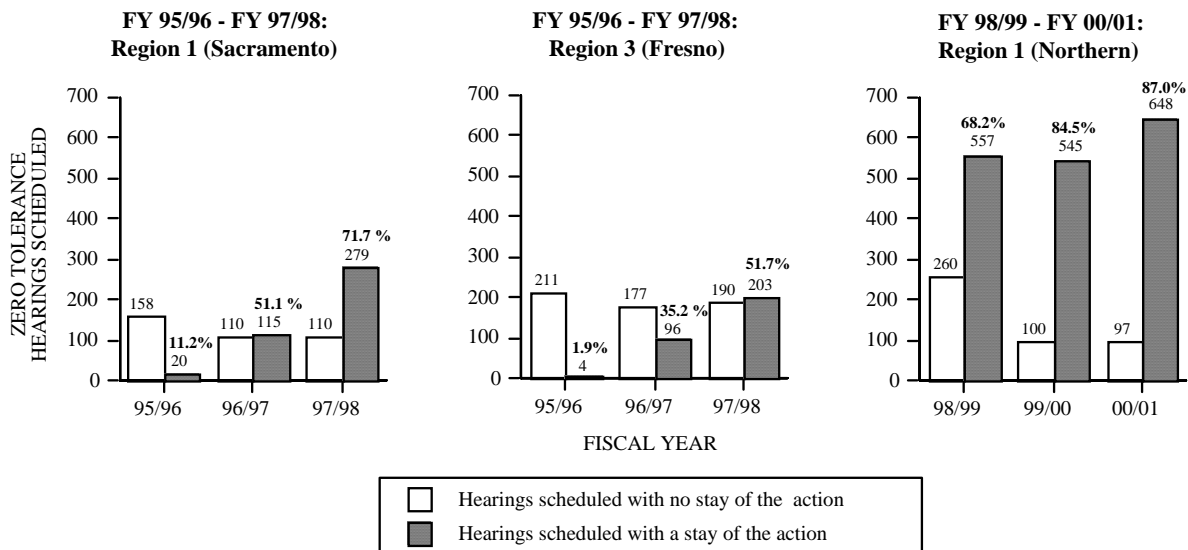
- APS cases were fairly consistently more likely to be set aside following a hearing when no stay of the action was imposed than when a stay was imposed. The magnitude of this proportionate difference was especially large in the Coastal and Metro regions in FY 00/01. Statewide total stayed and nonstayed actions set aside following a hearing are presented separately and combined in Figure 2e.1.

## **SECTION 8: REGIONAL TRENDS FOR ZERO TOLERANCE ACTIONS**

- In Figures 8a.1 through 8c.6, below, comparisons between the former Sacramento or Fresno regions of FY 95/96 through FY/97/98 and the current Northern region should be made with caution since the former regions included fewer hearing points than does the Northern Region formed in FY 98/99. This same caution is offered regarding comparisons between the Oakland or Fresno regions of FY 95/96 through FY/97/98 and the Coastal Region formed in FY 98/99. This also applies to comparisons between Fresno or LA regions of FY 95/96 through FY 97/98 and the Metro Region formed in FY 98/99.

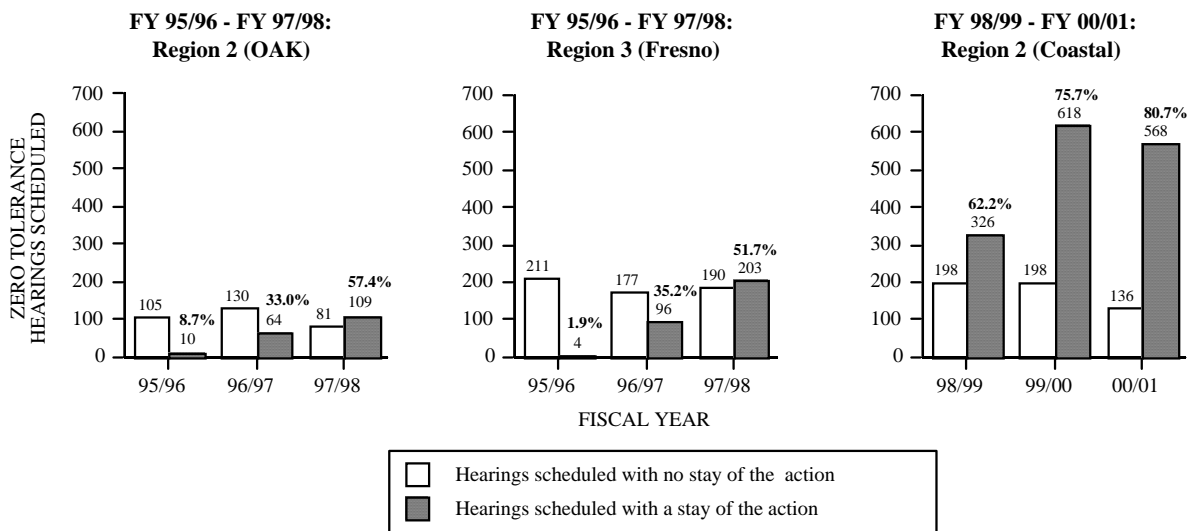
### **Section 8a: Zero Tolerance Actions by Stay Status by Region by Year**

#### **Sacramento/Northern Region**



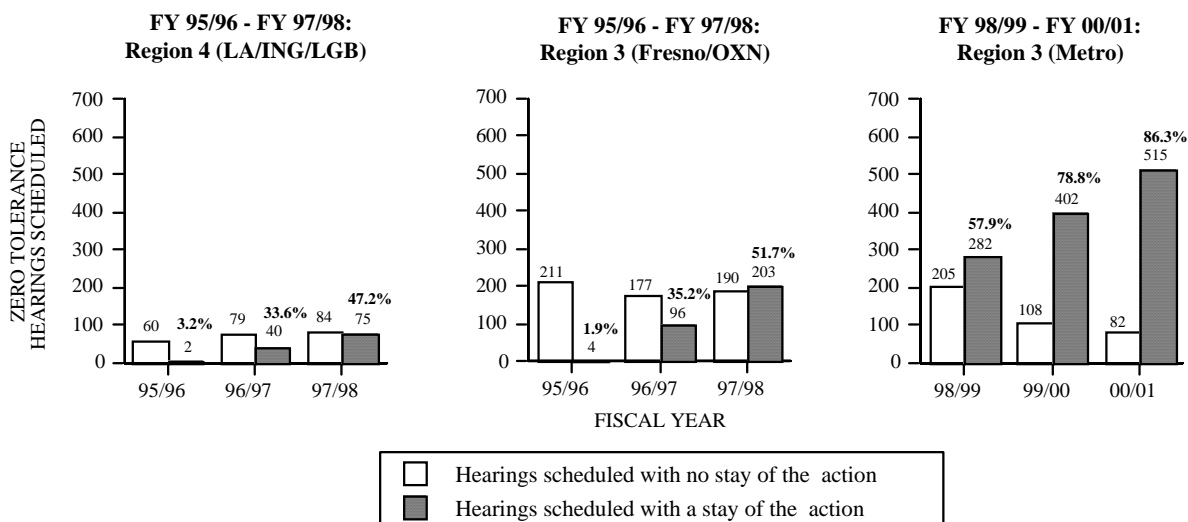
**Figure 8a.1.** Total zero tolerance APS and refusal cases by stay status (stayed versus non-stay) and percentage stayed in the Sacramento/Northern Region, FY 95/96 through FY 00/01.

## Oakland/Coastal Region



**Figure 8a.2.** Total zero tolerance APS and refusal cases by stay status (stayed versus no stay) and percentage stayed in the Oakland/Coastal Region, FY 95/96 through FY 00/01.

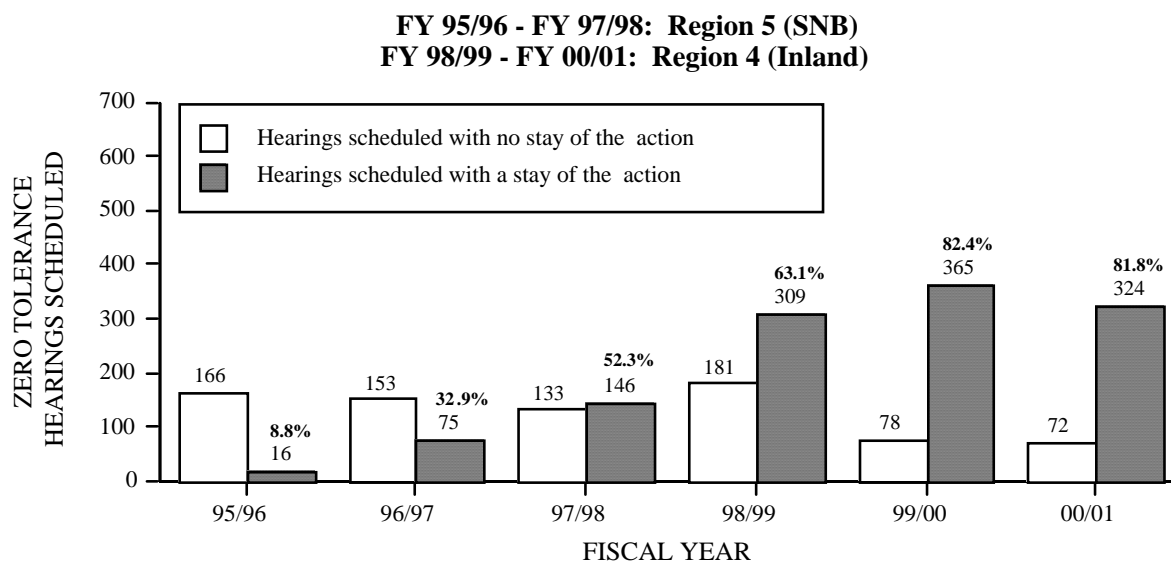
## Los Angeles/Metro Region



**Figure 8a.3.** Total zero tolerance APS and refusal cases by stay status (stayed versus no stay) and percentage stayed in the Los Angeles/Metro Region, FY 95/96 through FY 00/01.

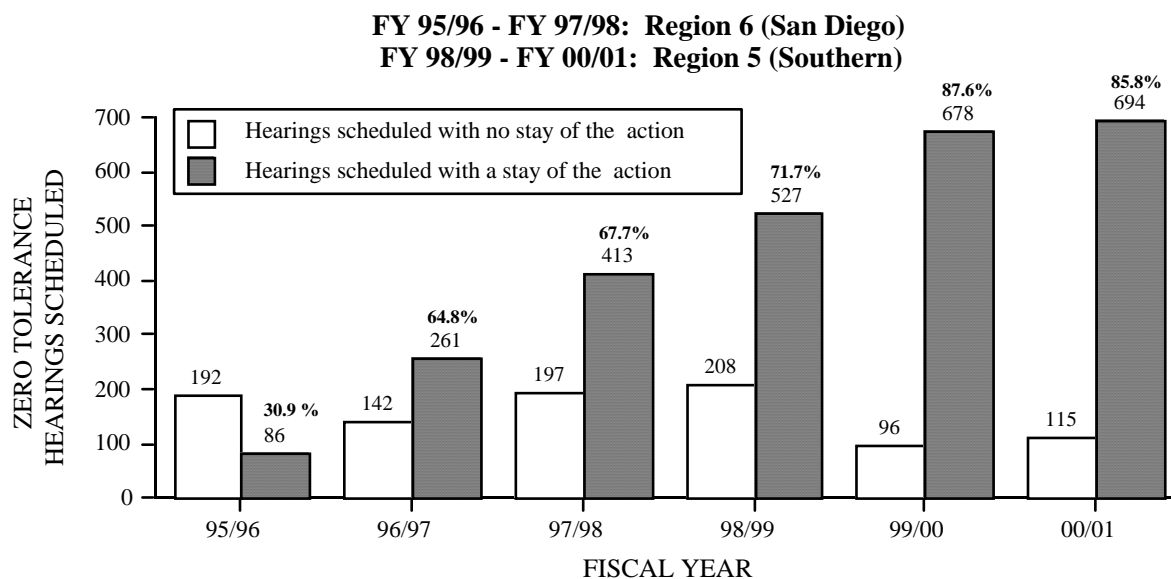


## San Bernardino/Inland Region



**Figure 8a.4.** Total zero tolerance APS and refusal cases by stay status (stayed versus no stay) and percentage stayed in the San Bernardino/Inland Region, FY 95/96 through FY 00/01.

## San Diego/Southern Region

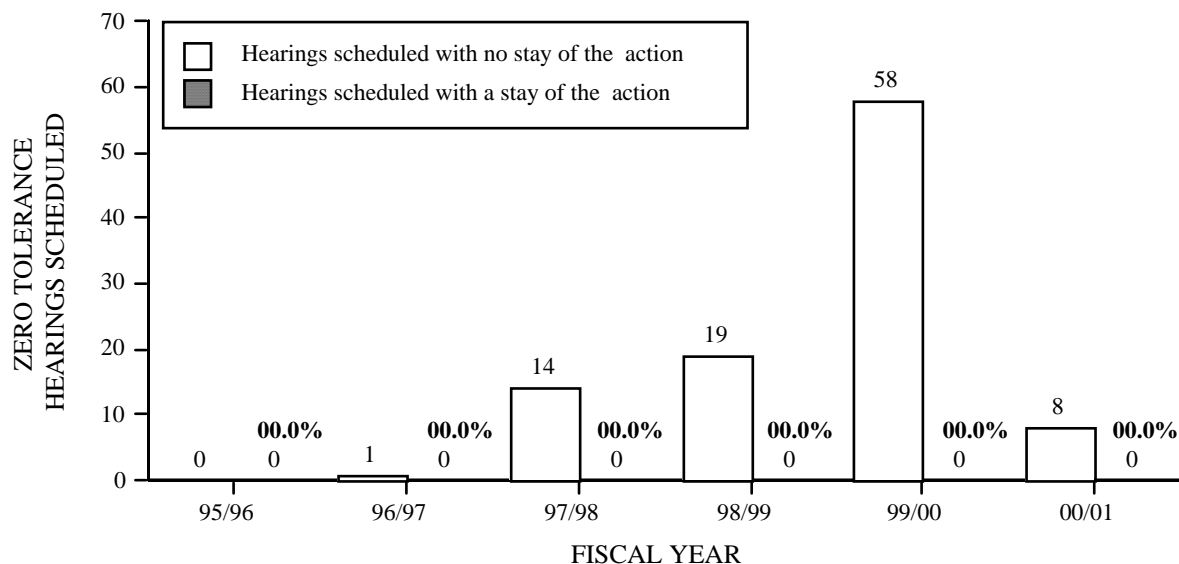


**Figure 8a.5.** Total zero tolerance APS and refusal cases by stay status (stayed versus no stay) and percentage stayed in the San Diego/Southern Region, FY 95/96 through FY 00/01.

## Headquarters Region

**FY 95/96 - FY 97/98: Region 7 (Headquarters)**

**FY 98/99 - FY 00/01: Region 6 (Headquarters)**

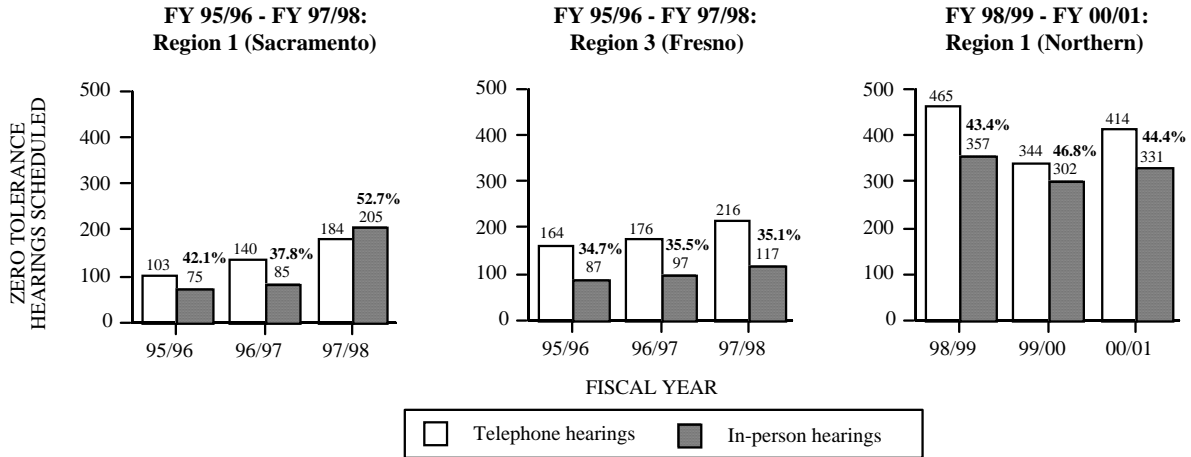


**Figure 8a.6.** Total zero tolerance APS and refusal cases by stay status (stayed versus no stay) and percentage stayed in the Headquarters Region, FY 95/96 through FY 00/01.

- As with “.08%” hearings held for the larger category of drivers aged 21 and over, greater proportions of under age 21 “zero tolerance” hearings resulted in a stay of the action each year, in each Driver Safety region.
- In FY 00/01, the most recent year presented here, the proportion of zero tolerance offenders who received a stay of the action was similar to the proportion of total APS offenders receiving a stay. (See Figures 7d.1 through 7d.6 to make this comparison).

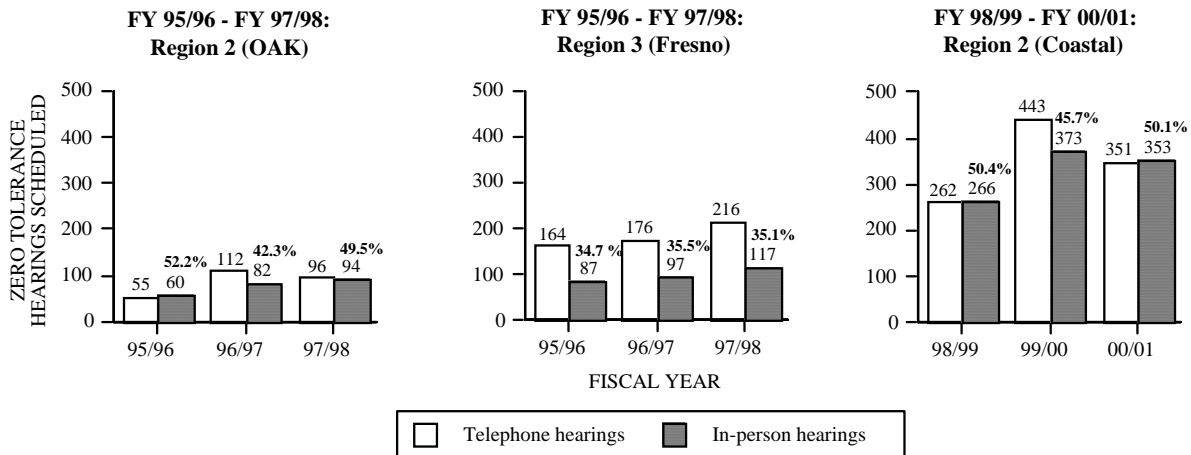
## Section 8b: Scheduled Zero Tolerance In-person (Type 4) and Telephone (Type 7) Hearings by Region by Year

### Sacramento/Northern Region



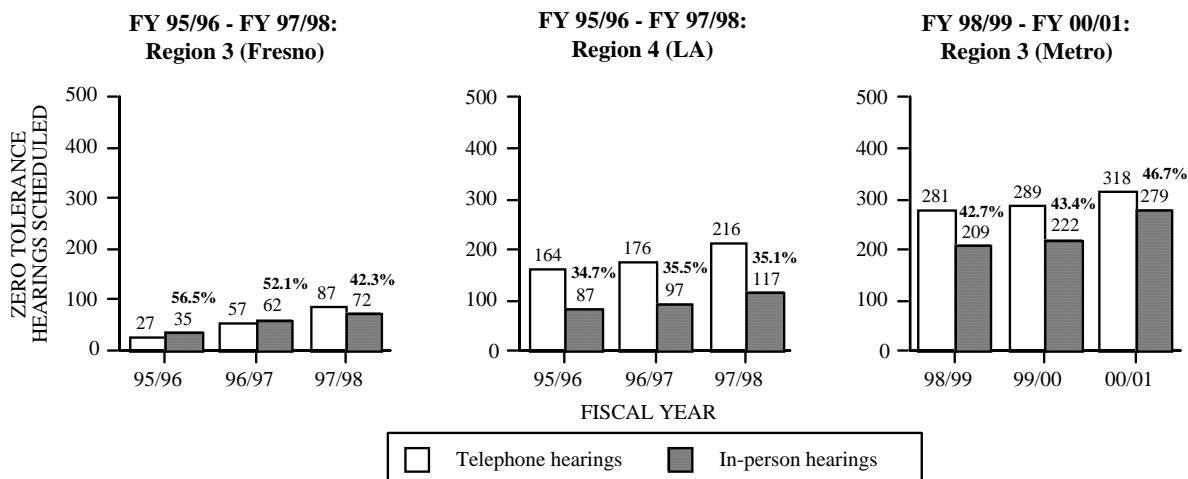
**Figure 8b.1.** Total zero tolerance Type 4 (In-person) and Type 7 (Telephone) hearings scheduled and percentage in-person for the Sacramento/Northern Region, FY 95/96 through FY 00/01. Includes zero tolerance refusal cases.

### Oakland/Coastal Region



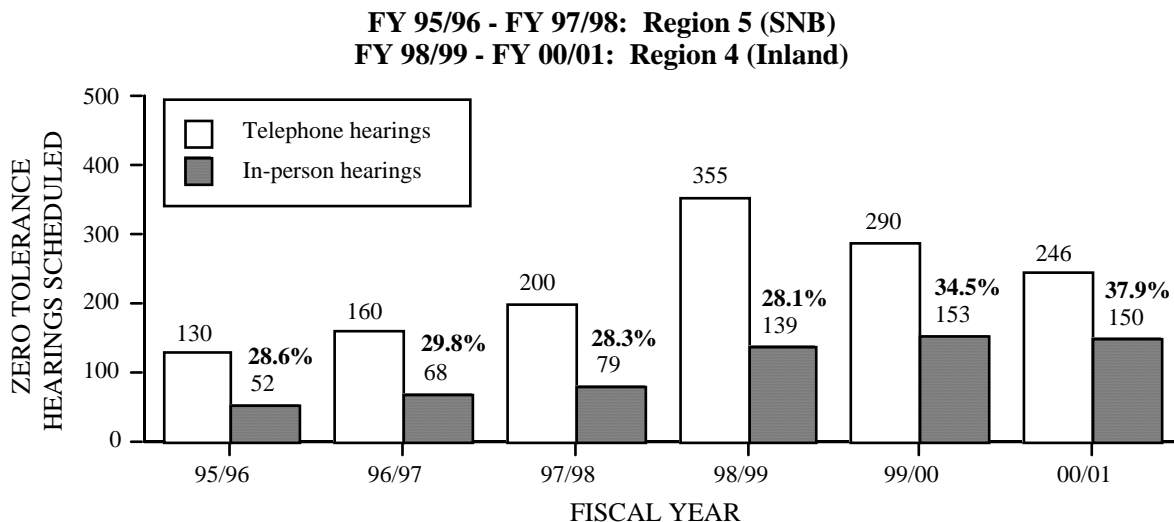
**Figure 8b.2.** Total zero tolerance Type 4 (In-person) and Type 7 (Telephone) hearings scheduled and percentage in-person for the Oakland/Coastal Region, FY 95/96 through FY 00/01. Includes zero tolerance refusal cases.

## Los Angeles/Metro Region



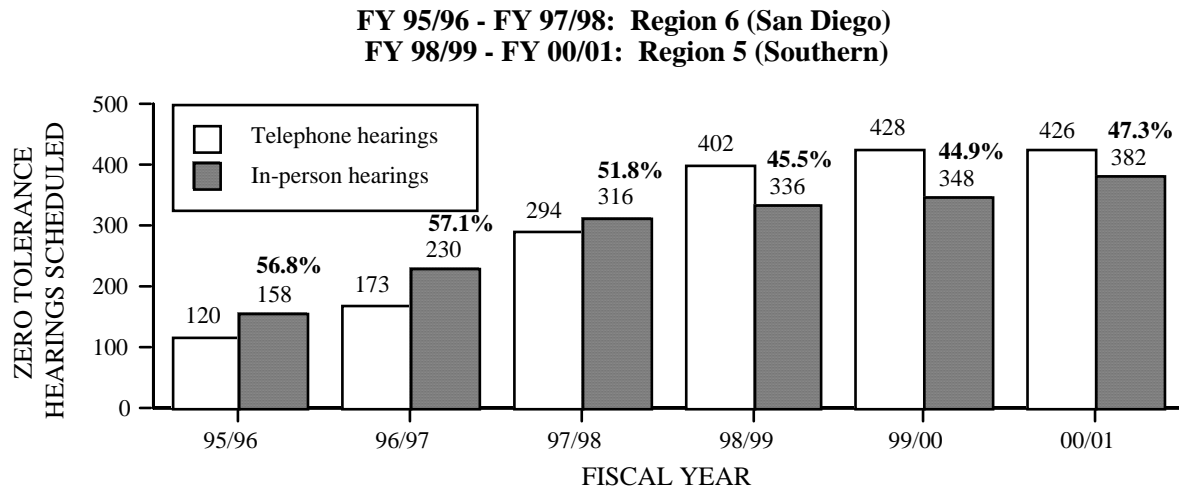
**Figure 8b.3.** Total zero tolerance Type 4 (In-person) and Type 7 (Telephone) hearings scheduled and percentage in-person for the Los Angeles/Metro Region, FY 95/96 through FY 00/01. Includes zero tolerance refusal cases.

## San Bernardino/Inland Region



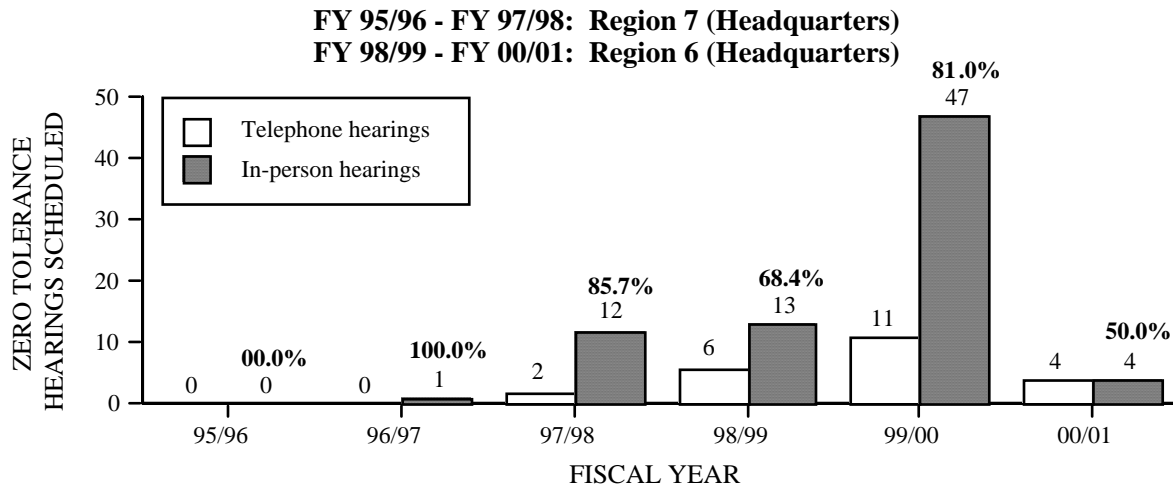
**Figure 8b.4.** Total zero tolerance Type 4 (In-person) and Type 7 (Telephone) hearings scheduled and percentage in-person for the San Bernardino/Inland Region, FY 95/96 through FY 00/01. Includes zero tolerance refusal cases.

## San Diego/Southern Region



**Figure 8b.5.** Total zero tolerance Type 4 (In-person) and Type 7 (Telephone) hearings scheduled and percentage in-person for the San Diego/Southern Region, FY 95/96 through FY 00/01. Includes zero tolerance refusal cases.

## Headquarters Region

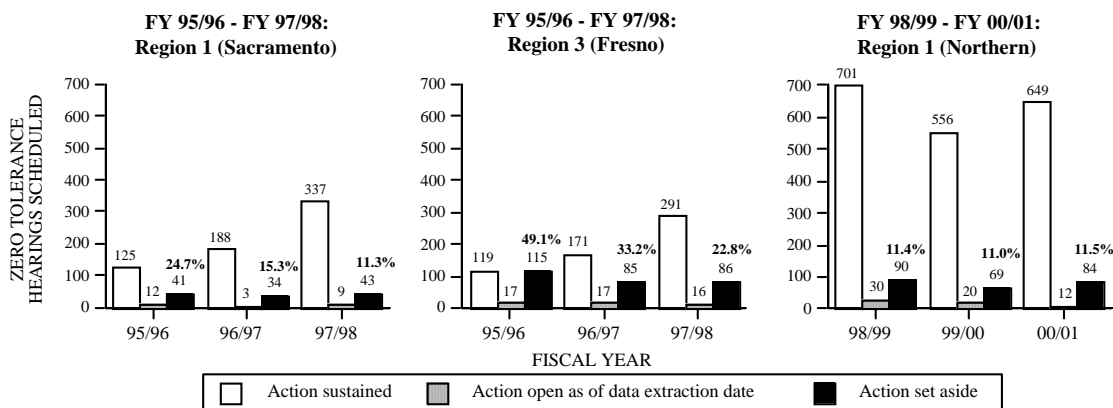


**Figure 8b.6.** Total zero tolerance Type 4 (In-person) and Type 7 (Telephone) hearings scheduled and percentage in-person for the Headquarters Region, FY 95/96 through FY 00/01. Includes zero tolerance refusal cases.

- In most regions, the total volume and percentage of zero tolerance hearings that were conducted by telephone decreased in FY 00/01.

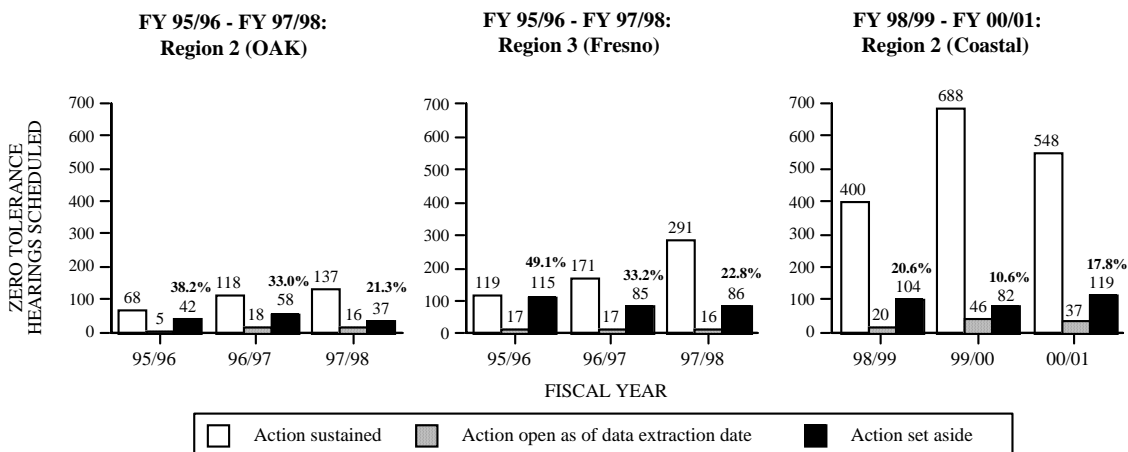
## Section 8c: Zero Tolerance Hearing Outcomes by Region by Year

### Sacramento/Northern Region



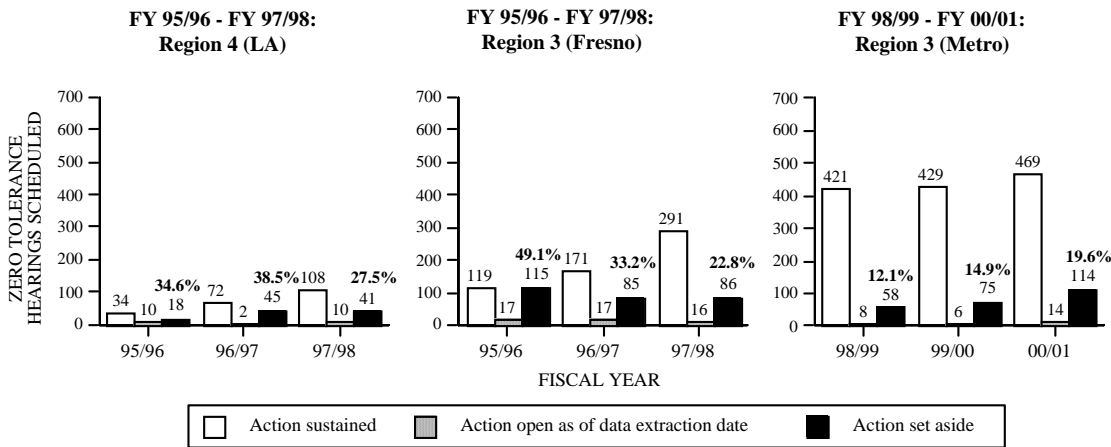
**Figure 8c.1.** Zero tolerance hearing outcomes (action sustained, open, or set aside) for hearings and percentage set aside in the Sacramento/Northern Region, FY 95/96 through FY 00/01. Includes zero tolerance refusal cases.

### Oakland/Coastal Region



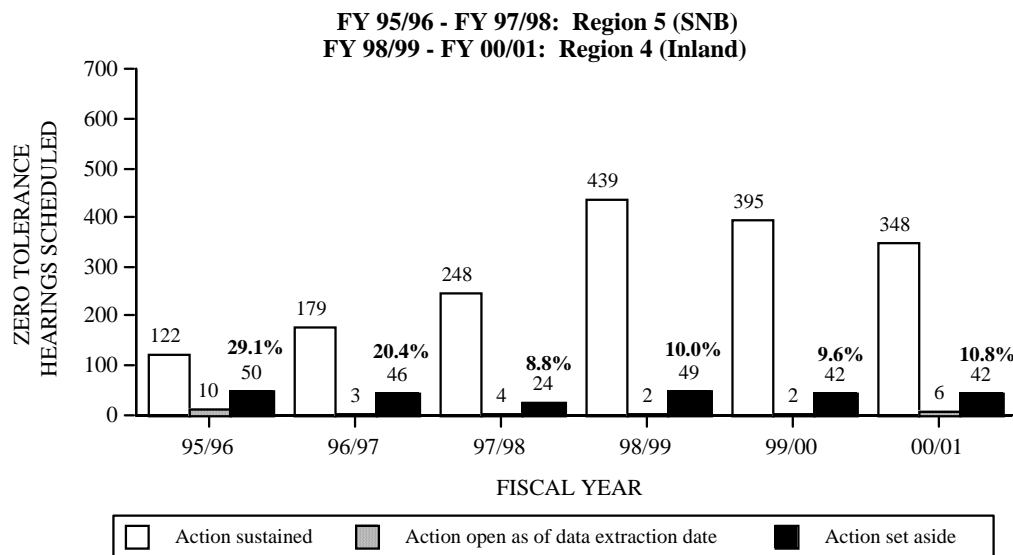
**Figure 8c.2.** Zero tolerance hearing outcomes (action sustained, open, or set aside) for hearings and percentage set aside in the Oakland/Coastal Region, FY 95/96 through FY 00/01. Includes zero tolerance refusal cases.

## Los Angeles/Metro Region



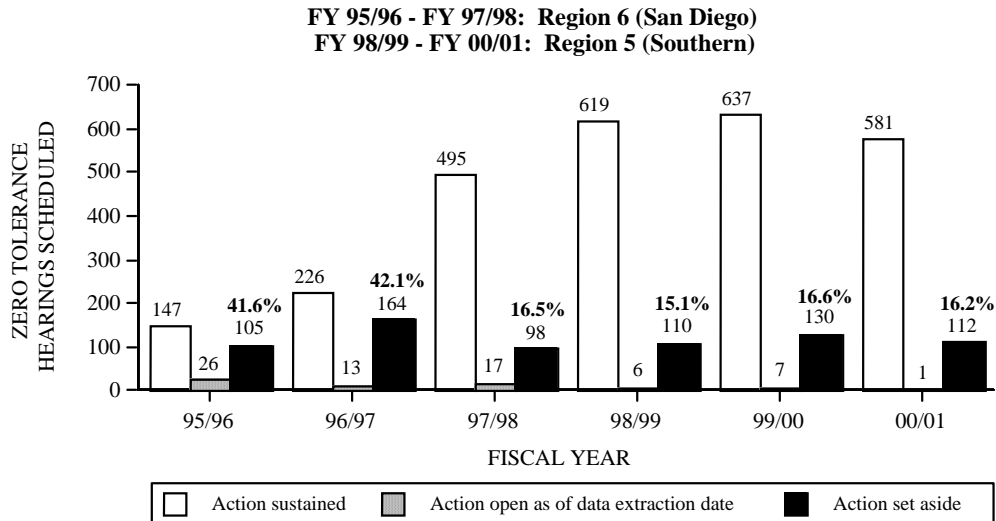
**Figure 8c.3.** Zero tolerance hearing outcomes (action sustained, open, or set aside) for hearings and percentage set aside in the Los Angeles/Metro Region, FY 95/96 through FY 00/01. Includes zero tolerance refusal cases.

## San Bernardino/Inland Region



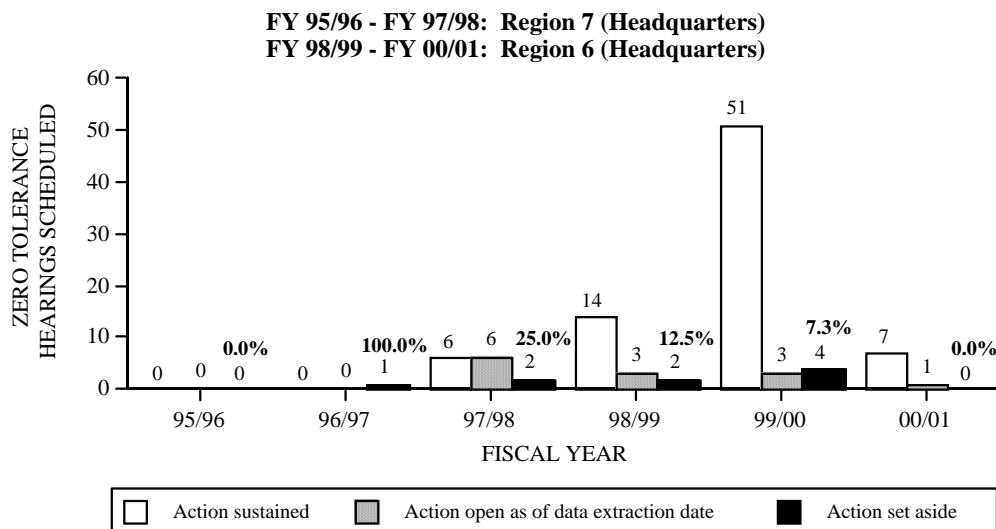
**Figure 8c.4.** Zero tolerance hearing outcomes (action sustained, open, or set aside) for hearings and percentage set aside in the San Bernardino/Inland Region, FY 95/96 through FY 00/01. Includes zero tolerance refusal cases.

## San Diego/Southern Region



**Figure 8c.5.** Zero tolerance hearing outcomes (action sustained, open, or set aside) for hearings and percentage set aside in the San Diego/Southern Region, FY 95/96 through FY 00/01. Includes zero tolerance refusal cases.

## Headquarters Region



Note: Different scale.

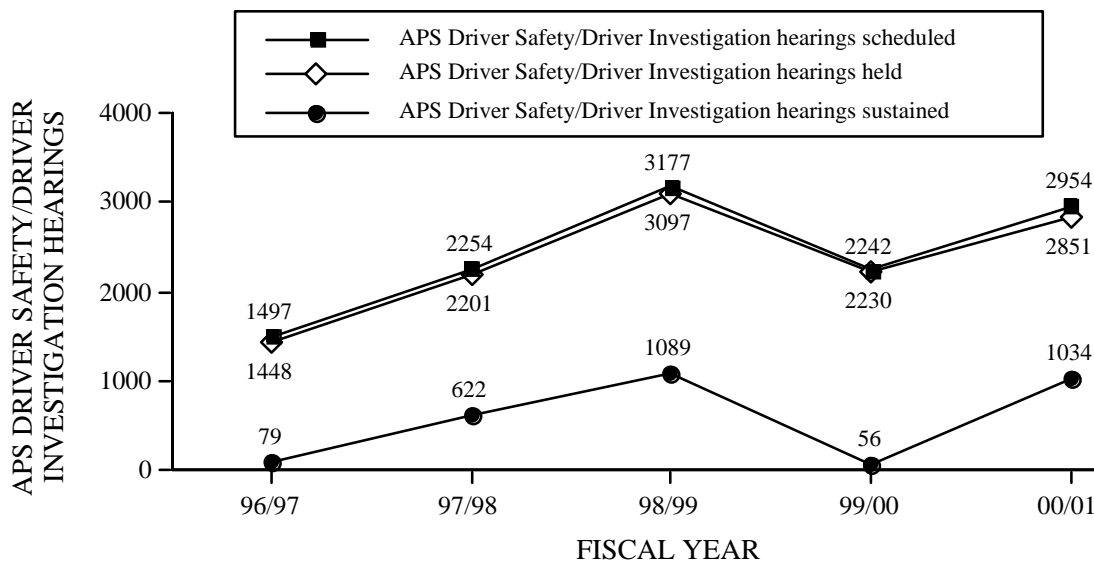
**Figure 8c.6.** Zero tolerance hearing outcomes (action sustained, open, or set aside) for hearings and percentage set aside in the Headquarters Region, FY 95/96 through FY 00/01. Includes zero tolerance refusal cases.



- Figures 8c.1 through 8c.6 show that set aside rates following a zero tolerance hearing were considerably higher in the first years following the introduction of the law and dropped considerably in subsequent years. This may be partially due to the new “untested” nature of the law in those early years after implementation.
- Zero tolerance set aside rates increased in FY 00/01 over the prior fiscal year in the Coastal, Metro, and Inland Regions while remaining fairly stable in the Northern and Southern Regions.

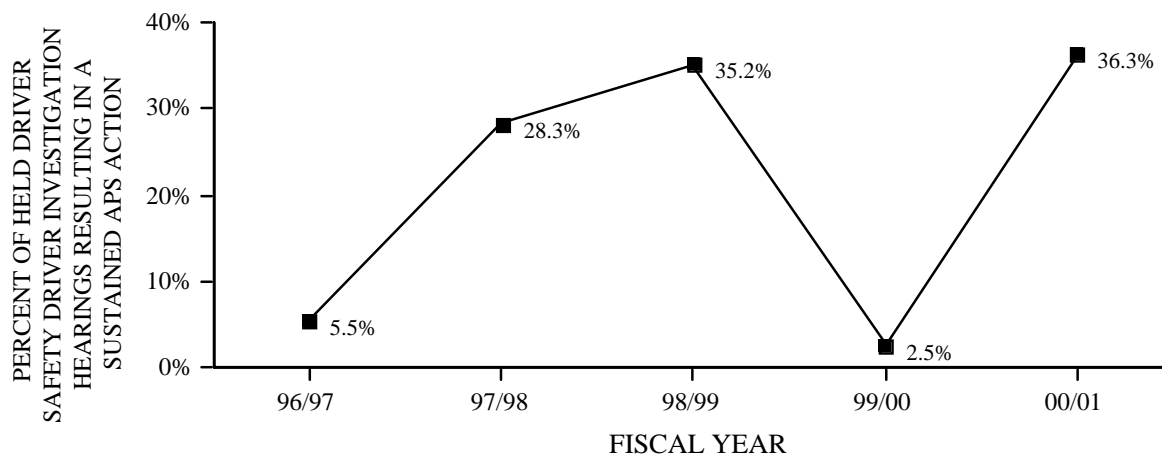
## SECTION 9: DRIVER SAFETY/DRIVER INVESTIGATION (TYPE 9) APS ACTIONS

### Section 9a: APS Hearing Type 9 Statewide Trends



**Figure 9a.1.** Total APS Driver Safety/Driver Investigation designated hearings scheduled, held, and sustained, FY 96/97 through FY 00/01.

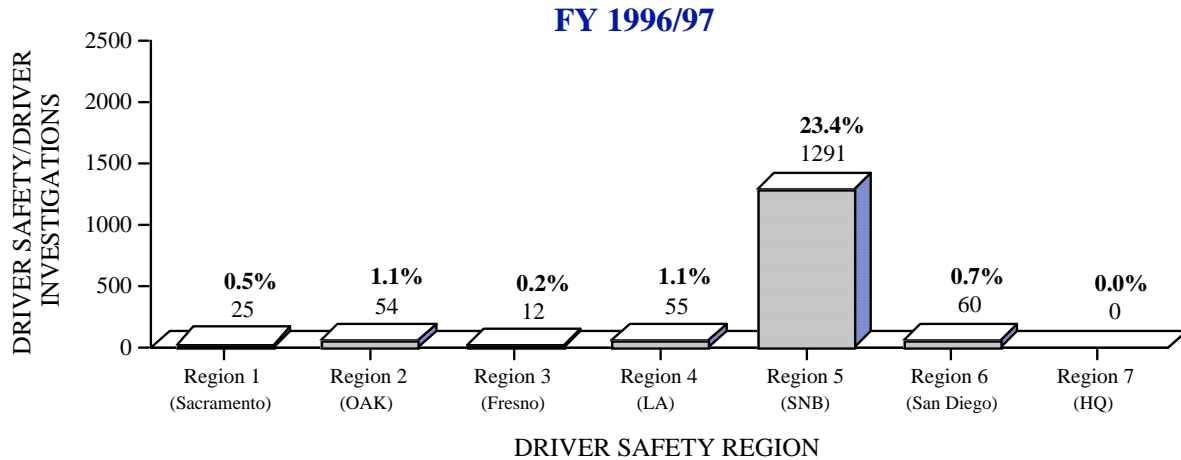
- These volumes reflect the use of Type 9 “hearings”, which are generally an administrative paper review of the case and not an actual hearing that was ever requested or scheduled.



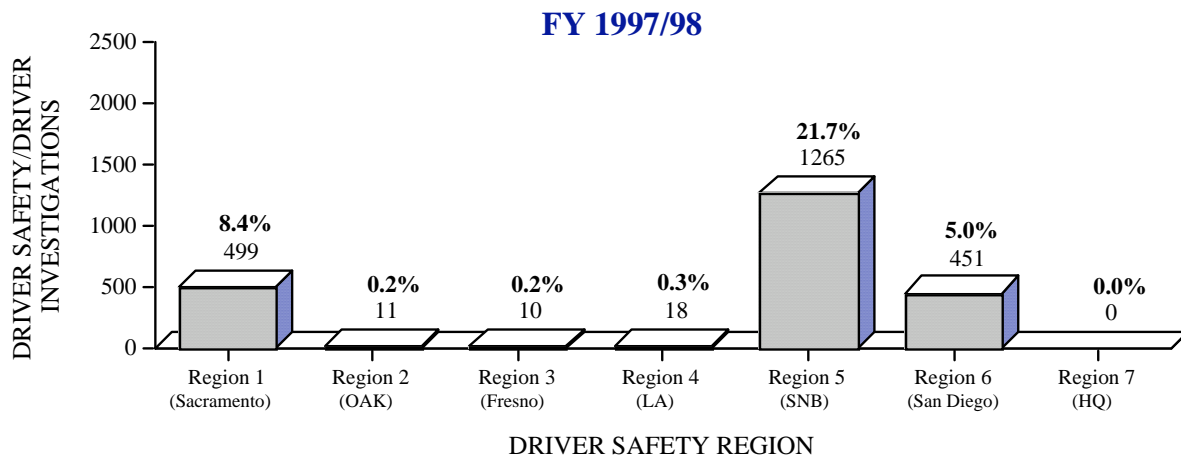
**Figure 9a.2.** Percentage of APS Driver Safety/Driver Investigation hearings resulting in a sustained action, FY 96/97 through FY 00/01.

- The large fluctuations in the plots shown in Figures 9a.1 and 9a.2 suggest an unstable process. The ways that this particular action was used for APS cases was vastly different between Driver Safety Regions for the years shown in these figures.

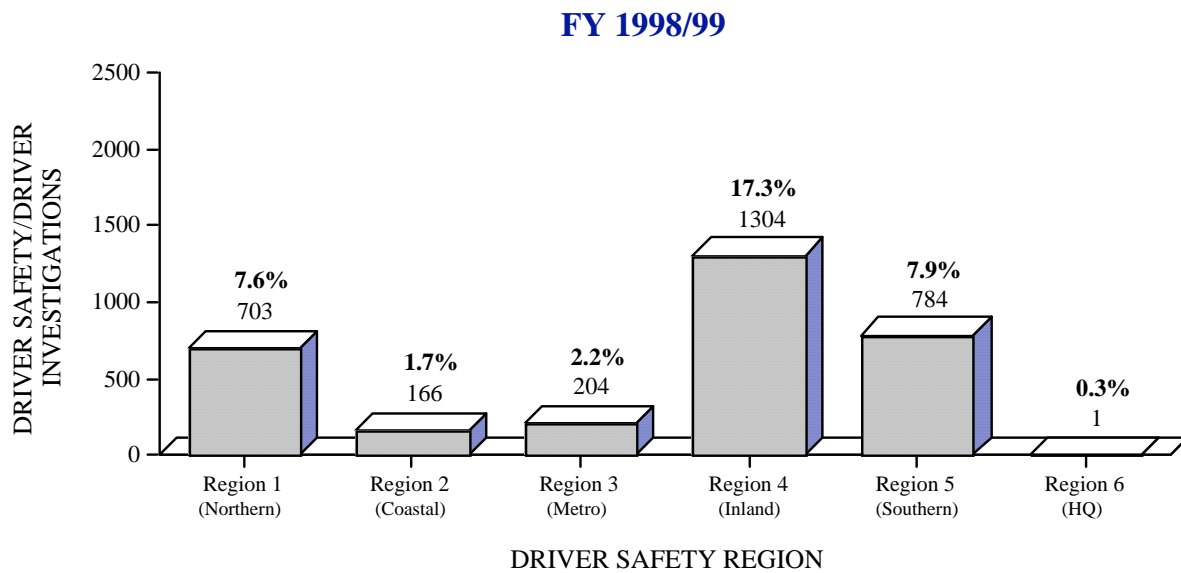
### Section 9b: APS Hearing Type 9 Regional Trends



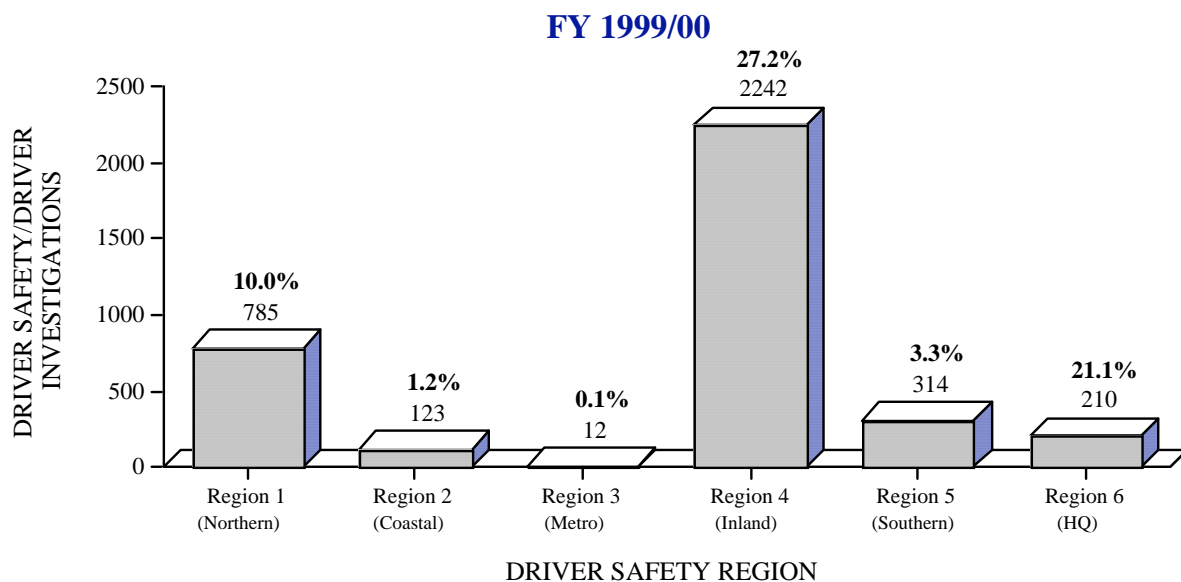
**Figure 9b.1.** Total scheduled Type-9 (Driver Safety/Driver Investigation) APS hearings and percentage Type 9 of the region's total APS (Type 4, 7, and 9) hearings by Region, FY 96/97.



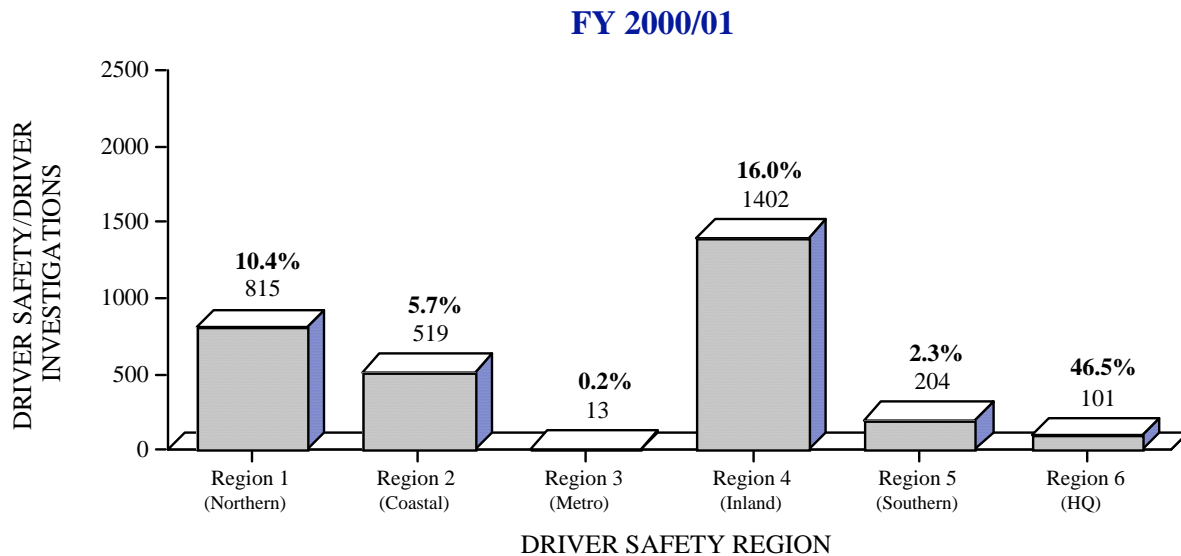
**Figure 9b.2.** Total scheduled Type-9 (Driver Safety/Driver Investigation) APS hearings and percentage Type 9 of the region's total APS (Type 4, 7, and 9) hearings by Region, FY 97/98.



**Figure 9b.3.** Total scheduled Type-9 (Driver Safety/Driver Investigation) APS hearings and percentage Type 9 of the region's total APS (Type 4, 7, and 9) hearings by Region, FY 98/99.



**Figure 9b.4.** Total scheduled Type-9 (Driver Safety/Driver Investigation) APS hearings and percentage Type 9 of the region's total APS (Type 4, 7, and 9) hearings by Region, FY 99/00.



**Figure 9b.5.** Total scheduled Type-9 (Driver Safety/Driver Investigation) APS hearings and percentage Type 9 of the region's total APS (Type 4, 7, and 9) hearings by Region, FY 00/01.

- The figures in this section (Figures 9b.1 through 9b.5) each show that there was not policy uniformity between the regions in their use of Hearing Type 9 actions in each of the years assessed. Uniformity would be indicated by little or no systematic regional difference in the proportion of total hearings held that were Type 9 hearings. The totals might differ from region to region if the hearing workload was not equally allocated across regions, but the proportion of their workload resulting in a Type 9 should not be drastically different from region to region.

**TABLE 9b.1: APS "Type 9" Driver Safety/Driver Investigations by Region****FY 1996/97**

Type 9 Hearing Type	Driver Safety Region						
	Sacto.	OAK	Fresno	LA	SNB	San Diego	HQ
Zero Tolerance (.01)*	21	0	3	1	32	14	0
Aged 21 and over (.08)*	4	54	9	54	1,259	46	0
Total Type 9s	25	54	12	55	1,291	60	0
% Zero Tolerance	84%	0.0%	25%	1.8%	2.5%	23.3%	0.0%
% change in % .01s from prior year	NA	NA	NA	NA	NA	NA	NA

Hearing Type 9 was introduced in October 1996.

**FY 1997/98**

Type 9 Hearing Type	Driver Safety Region						
	Sacto.	OAK	Fresno	LA	SNB	San Diego	HQ
Zero Tolerance (.01)*	376	0	0	3	49	144	0
Aged 21 and over (.08)*	123	11	10	18	1,216	307	0
Total Type 9s	499	11	10	24	1,265	451	0
% Zero Tolerance	75.4%	0.0%	0.0%	12.5%	3.9%	31.9%	0.0%
% change in % .01s from prior year	-10.2%	0.0%	-100.0%	594%	56.0%	36.9%	0.0%

**FY 1998/99**

Type 9 Hearing Type	Driver Safety Region					
	Northern	Coastal	Metro	Inland	Southern	HQ
Zero Tolerance (.01)*	498	14	191	79	318	1
Aged 21 and over (.08)*	205	152	13	1,225	466	0
Total Type 9s	703	166	204	1,304	784	1
% Zero Tolerance	70.8%	8.4%	93.6%	6.1%	40.6%	100.0%
% change in % .01s from prior year	NA*	NA*	NA*	56.4%	27.3%	100.0%

\*Not applicable since there was a change in offices in this region from prior year.

**FY 1999/00**

Type 9 Hearing Type	Driver Safety Region					
	Northern	Coastal	Metro	Inland	Southern	HQ
Zero Tolerance (.01)*	541	71	5	101	265	85
Aged 21 and over (.08)*	244	52	7	2,141	58	125
Total Type 9s	785	123	12	2,242	314	210
% <b>Zero Tolerance</b>	<b>68.9%</b>	<b>57.7%</b>	<b>41.7%</b>	<b>4.5%</b>	<b>84.4%</b>	<b>40.5%</b>
% change in % .01s from prior year	-2.7%	586.9%	-55.4%	-26.2%	107.9%	-59.5%

**FY 2000/01**

Type 9 Hearing Type	Driver Safety Region					
	Northern	Coastal	Metro	Inland	Southern	HQ
Zero Tolerance (.01)*	277	148	8	116	134	92
Aged 21 and over (.08)*	538	371	5	1,286	70	9
Total Type 9s	815	419	13	1,402	204	101
% <b>Zero Tolerance</b>	<b>34.0%</b>	<b>28.5%</b>	<b>61.5%</b>	<b>8.3%</b>	<b>65.7%</b>	<b>91.1%</b>
% change in % .01s from prior year	-50.7%	-50.6%	47.5%	84.4%	-22.2%	124.9%

\*Both categories include refusal actions. (Hearings for zero tolerance offenders may, or may not, have been to consider issuing a hardship license.)

## **SECTION 10: TYPE OF BAC TESTS**

### **Section 10a: Statewide BAC Testing**

**Table 10a.1: Number of Cases and Proportion of APS Actions  
by Type of BAC Test Taken**

Type of test	Fiscal Year					
	98/99	%	99/00	%	00/01	%
Total	194,602	100.0	190,720	100.0	183,979	100.0
Breath	103,273	53.1	99,135	52.0	94,278	51.2
Blood	60,925	31.3	65,093	34.1	66,510	36.2
Urine	5,711	2.9	1,672	0.9	1,809	1.0
Refusal	10,512	5.4	10,293	5.4	9,850	5.4
PAS*	13,814	7.1	13,859	7.3	11,223	6.1
Unknown	367	0.2	668	0.4	309	0.2

\*The type of test for these cases may have actually been one of the standard evidentiary tests but were updated as PAS tests based on the age of the driver.

**Section 10b: BAC Test Types by County****Table 10b.1: BAC Test Type by County FY 1998/99**

COUNTY	BREATH	BLOOD	URINE	REFUSAL	PAS	UNKNOWN
STATEWIDE	103273	60925	5711	10512	13814	367
ALAMEDA	2700	1134	177	416	378	
ALPINE	0	0	0	0	0	
AMADOR	113	61	7	22	22	
BUTTE	613	570	26	67	151	
CALAVERAS	146	111	7	19	23	
COLUSA	214	91	10	2	38	
CONTRA COSTA	1871	926	72	84	325	
DEL NORTE	156	52	12	22	19	
EL DORADO	556	267	18	79	69	
FRESNO	4228	1541	115	384	666	
GLENN	128	89	10	10	22	
HUMBOLDT	648	271	64	144	107	
IMPERIAL	1055	250	52	72	118	
INYO	148	51	6	14	36	
KERN	2729	780	101	408	459	
KINGS	488	362	51	21	92	
LAKE	316	120	24	61	27	
LASSEN	149	62	21	12	20	
LOS ANGELES	23498	5017	1017	2538	1788	
MADERA	339	281	17	28	64	
MARIN	664	405	41	106	79	
MARIPOSA	55	24	11	2	12	
MENDOCINO	491	204	25	54	73	
MERCED	1092	549	44	120	184	
MODOC	47	18	3	10	7	
MONO	46	18	8	5	15	
MONTEREY	1062	721	65	163	182	
NAPA	561	414	28	42	110	
NEVADA	429	256	31	45	89	
ORANGE	3677	9359	315	633	677	
PLACER	796	532	67	59	143	
PLUMAS	181	66	8	6	20	
RIVERSIDE	1183	1188	16	108	106	
SACRAMENTO	4335	2727	271	181	582	
SAN BENITO	126	82	4	15	25	
SAN BERNARDINO	1273	1386	16	69	115	
SAN DIEGO	6583	5497	643	531	1068	
SAN FRANCISCO	865	353	56	102	52	
SAN JOAQUIN	2109	1421	58	146	310	
SAN LUIS OBISPO	1119	650	83	109	338	
SAN MATEO	1683	1022	138	227	231	
SANTA BARBARA	1622	951	100	99	412	
SANTA CLARA	3328	2846	131	275	499	
SANTA CRUZ	869	431	42	15	180	
SHASTA	707	380	26	139	139	
SIERRA	9	3	0	2	0	
SISKIYOU	190	98	16	49	45	
SOLANO	1282	377	45	128	121	
SONOMA	1968	597	92	281	299	
STANISLAUS	1373	1098	60	67	233	
SUTTER	211	290	12	26	50	
TEHAMA	264	158	12	26	44	
TRINITY	88	19	3	8	14	
TULARE	1409	1414	76	72	286	
TUOLUMNE	257	132	5	9	23	
VENTURA	2346	1235	143	209	429	
YOLO	616	233	30	38	126	
YUBA	101	226	4	21	27	
COUNTY UNKNOWN	18161	11509	1176	1912	2045	



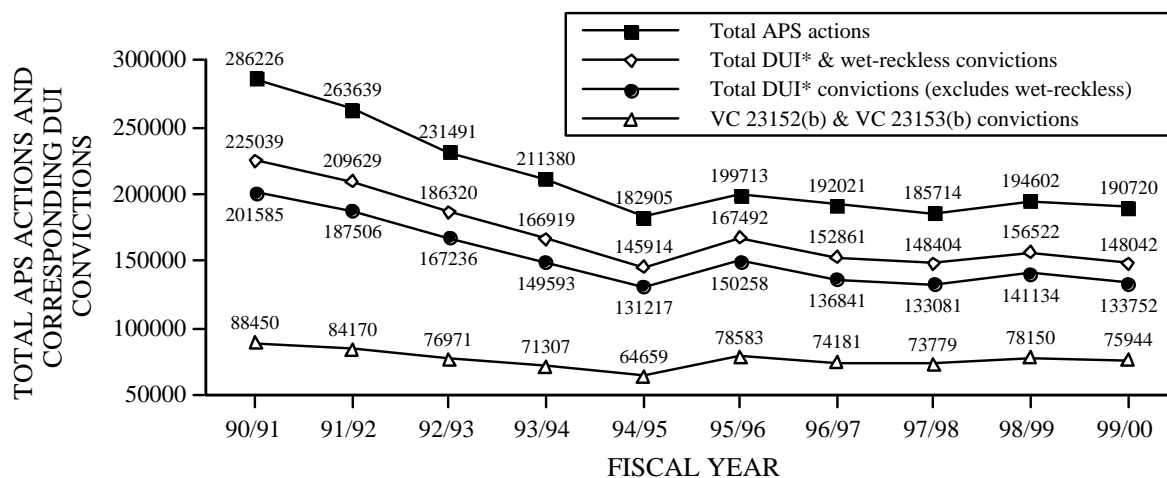
**Table 10b.2: BAC Test Type by County FY 1999/00**

COUNTY	BREATH	BLOOD	URINE	REFUSAL	PAS	UNKNOWN
STATEWIDE	99135	65093	1672	10293	13859	668
ALAMEDA	3444	1347	85	515	478	
ALPINE	0	1	0	0	0	
AMADOR	147	78	4	19	17	
BUTTE	583	651	9	52	224	
CALAVERAS	99	110	1	13	20	
COLUSA	193	87	4	5	25	
CONTRA COSTA	2787	1292	38	143	574	
DEL NORTE	168	50	1	27	44	
EL DORADO	574	283	6	78	94	
FRESNO	3886	1670	32	334	437	
GLENN	188	79	6	13	40	
HUMBOLDT	639	282	16	132	125	
IMPERIAL	671	192	13	45	109	
INYO	138	65	4	18	15	
KERN	2601	1103	74	400	383	
KINGS	545	345	19	29	100	
LAKE	323	130	48	57	38	
LASSEN	150	39	15	12	15	
LOS ANGELES	26252	7471	408	3400	2058	
MADERA	391	418	4	36	55	
MARIN	759	435	1	98	136	
MARIPOSA	57	26	5	1	8	
MENDOCINO	463	259	17	44	114	
MERCED	1072	548	19	78	173	
MODOC	60	19	4	11	13	
MONO	73	41	1	7	9	
MONTEREY	1314	887	19	228	183	
NAPA	598	390	4	62	128	
NEVADA	411	277	7	42	62	
ORANGE	4365	10194	8	663	857	
PLACER	789	571	9	53	163	
PLUMAS	180	59	0	3	23	
RIVERSIDE	3969	4527	30	409	382	
SACRAMENTO	4077	2546	187	145	615	
SAN BENITO	111	55	0	17	31	
SAN BERNARDINO	4356	5076	73	296	416	
SAN DIEGO	4662	3965	89	241	951	
SAN FRANCISCO	1213	489	12	146	96	
SAN JOAQUIN	1907	1360	25	111	354	
SAN LUIS OBISPO	1120	772	24	130	276	
SAN MATEO	1997	1046	53	263	280	
SANTA BARBARA	1791	1090	24	100	418	
SANTA CLARA	3104	4218	24	338	530	
SANTA CRUZ	914	480	12	16	177	
SHASTA	699	412	8	124	166	
SIERRA	12	11	0	1	3	
SISKIYOU	194	93	2	49	39	
SOLANO	1209	335	21	135	162	
SONOMA	2065	588	31	241	346	
STANISLAUS	1268	981	7	72	277	
SUTTER	129	222	4	32	46	
TEHAMA	318	189	4	12	59	
TRINITY	72	34	1	21	9	
TULARE	1360	1637	23	66	200	
TUOLUMNE	245	123	0	6	43	
VENTURA	2546	1260	22	182	371	
YOLO	619	352	6	24	154	
YUBA	123	227	2	22	28	
COUNTY UNKNOWN	5135	3606	107	476	710	

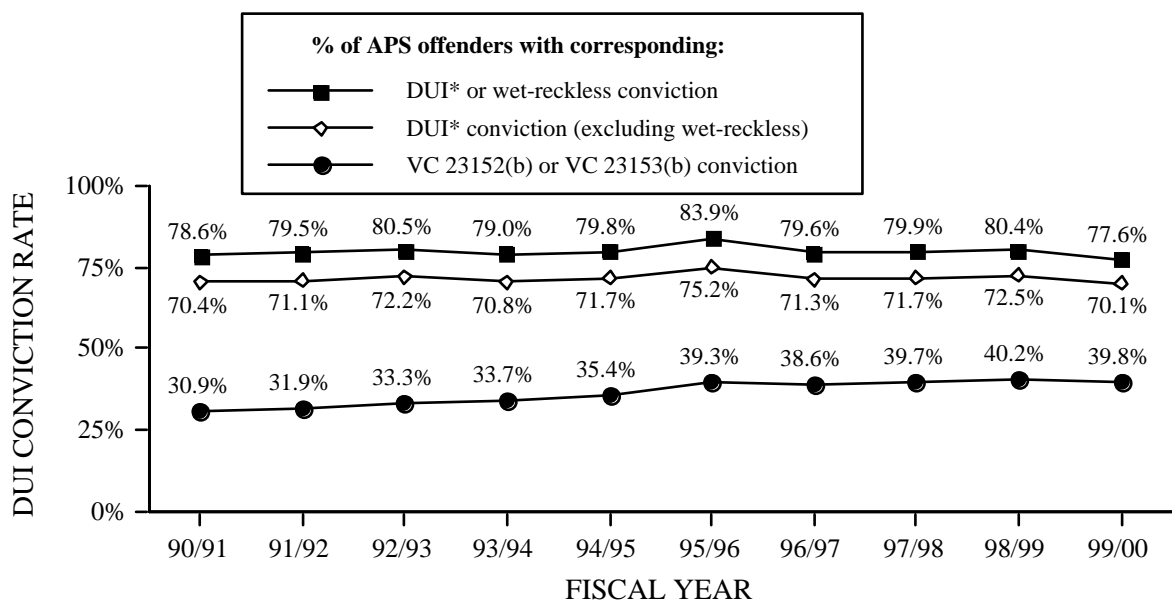
**Table 10b.3: BAC Test Type by County FY 2000/01**

COUNTY	BREATH	BLOOD	URINE	REFUSAL	PAS	UNKNOWN
STATEWIDE	94278	66510	1809	9850	11223	309
ALAMEDA	3773	1844	122	517	440	9
ALPINE	3	1	1	0	0	0
AMADOR	86	50	3	7	19	0
BUTTE	717	602	9	61	177	2
CALAVERAS	105	97	0	5	17	0
COLUSA	84	53	2	3	24	0
CONTRA COSTA	3197	1504	71	214	515	6
DEL NORTE	127	54	6	17	26	0
EL DORADO	556	326	6	58	89	1
FRESNO	3632	1865	83	247	339	3
GLENN	106	70	2	13	20	2
HUMBOLDT	629	357	19	93	107	6
IMPERIAL	437	236	19	33	64	1
INYO	82	26	3	7	10	0
KERN	2450	1310	49	390	272	8
KINGS	452	344	27	39	56	0
LAKE	353	141	55	49	47	0
LASSEN	121	64	6	6	21	0
LOS ANGELES	25050	9492	381	3432	1670	49
MADERA	493	406	3	30	41	1
MARIN	718	427	13	103	91	4
MARIPOSA	55	37	2	1	4	0
MENDOCINO	392	245	24	43	88	2
MERCED	906	469	26	60	97	3
MODOC	37	14	3	8	5	0
MONO	47	29	0	5	4	2
MONTEREY	1661	875	11	169	164	5
NAPA	461	355	6	40	74	1
NEVADA	277	221	9	15	57	1
ORANGE	4251	7802	44	662	799	77
PLACER	739	515	13	37	158	1
PLUMAS	125	54	0	4	14	0
RIVERSIDE	3803	4334	55	359	486	10
SACRAMENTO	3845	2605	95	167	549	13
SAN BENITO	148	177	3	29	30	0
SAN BERNARDINO	3566	5223	63	279	462	12
SAN DIEGO	6386	6188	125	360	1001	14
SAN FRANCISCO	1286	580	35	149	74	2
SAN JOAQUIN	2103	1548	41	96	337	4
SAN LUIS OBISPO	1025	681	16	83	69	2
SAN MATEO	1934	1017	34	212	243	3
SANTA BARBARA	1548	964	19	92	127	7
SANTA CLARA	2615	4794	46	382	489	21
SANTA CRUZ	869	704	13	34	143	2
SHASTA	672	405	7	77	118	1
SIERRA	14	9	0	0	1	0
SISKIYOU	149	101	7	44	23	0
SOLANO	1287	572	24	150	195	1
SONOMA	1917	729	40	224	319	8
STANISLAUS	1227	999	8	79	262	4
SUTTER	171	217	4	21	46	1
TEHAMA	242	161	22	13	43	0
TRINITY	53	25	0	7	2	0
TULARE	1440	1346	35	69	214	4
TUOLUMNE	181	130	5	9	29	0
VENTURA	2545	1150	45	189	172	4
YOLO	517	341	4	23	111	1
YUBA	140	202	1	20	39	0
COUNTY UNKNOWN	2473	1423	44	315	130	11

## SECTION 11: RESULTANT DUI OR DUI-RELATED COURT CONVICTIONS



**Figure 11.1.\*\*** Total APS actions that resulted in a DUI or DUI-related court conviction, by type of DUI conviction, FY 90/91 through FY 99/00.

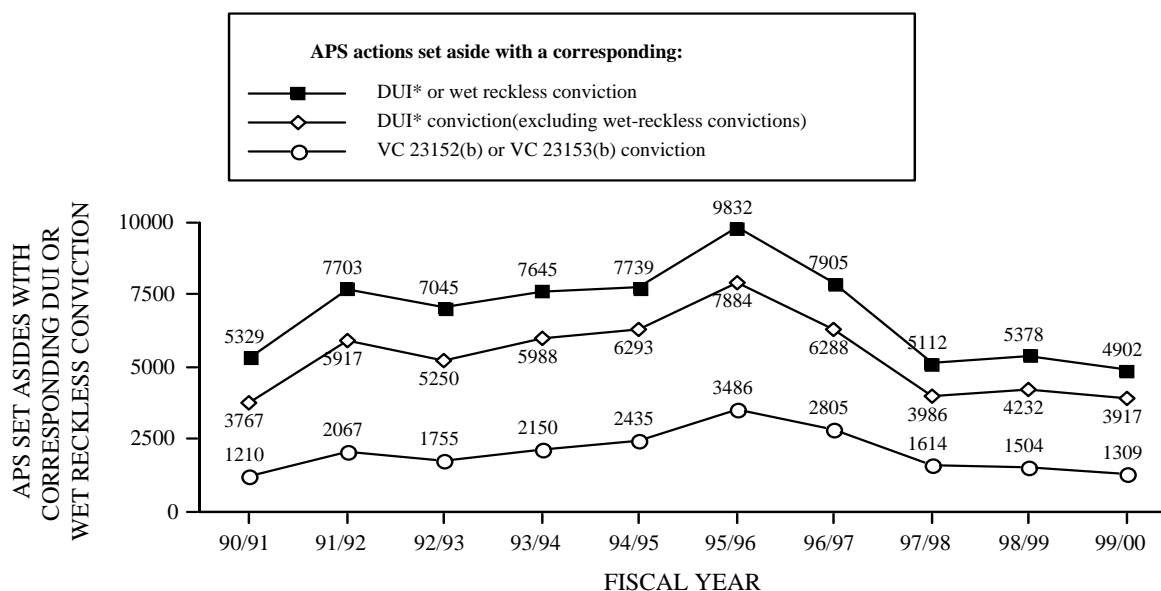


**Figure 11.2.\*\*** Percent of APS offenders with a corresponding DUI or wet-reckless conviction, by type of conviction, FY 90/91 through FY 99/00.

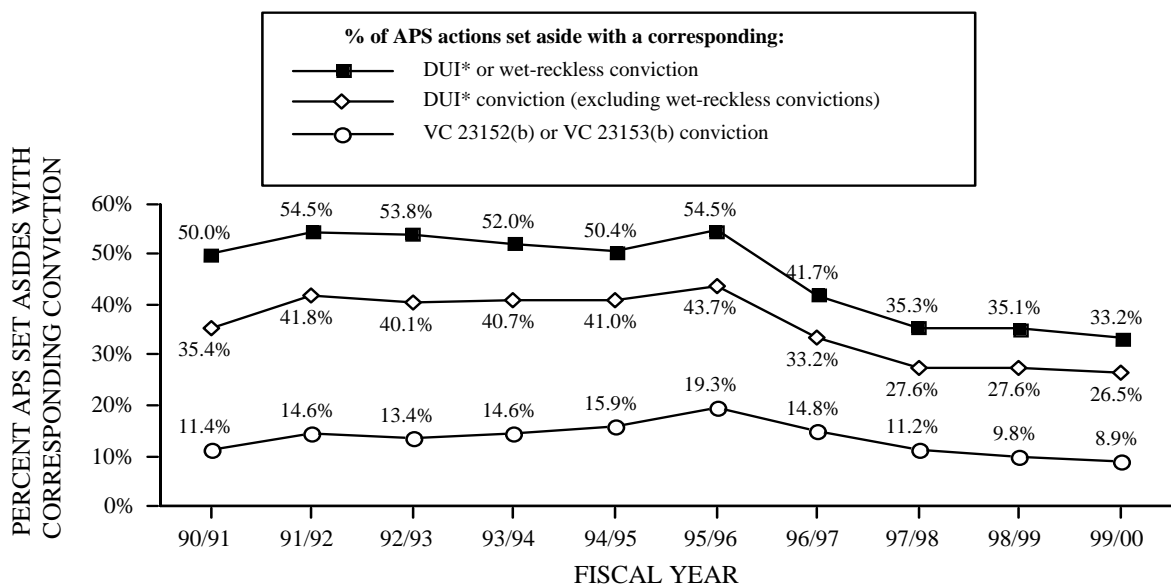
\*DUI includes convictions of VC §23152, VC §23153, VC §23140, PC §191.5, PC §192(c)3, USC §36FR46, and USC §36423.

\*\*The figures reported here reflect convictions updated as of March 23, 2001, when the conviction data were extracted.

- Due to delays in court adjudication, a small additional percentage of the most recently arrested DUI offenders will subsequently be convicted of the offense.



**Figure 11.3.\*\*** Total APS actions set aside resulting in a Court DUI Conviction by type of conviction, FY 90/91 through FY 99/00.



**Figure 11.4.\*\*** Percent of set aside APS actions that resulted in a DUI or wet-reckless conviction for the originating incident by type of conviction, FY 90/91 through FY 99/00.

\*DUI includes convictions of VC §23152, VC §23153, VC §23140, PC §191.5, PC §192(c)3, USC §36FR46, and USC §36423.

\*\*The figures reported here reflect convictions updated as of March 23, 2001, when the conviction data were extracted.

- In each of the above figures, the subsidiary trend lines represent subsets of the overall trend line represented in bold print.
- Figure 11.4 shows that there has been a steady decrease since the high in FY 95/96 in the percent of set aside APS actions that resulted in a corresponding conviction of VC 23152(b) or VC 23153(b).
- Assessing the trends for VC 23152(b) or VC 23153(b) convictions for the same incident that resulted in an APS set aside is a good way of assessing errors made in the set aside process, since the court has a higher standard of proof than does the department. In contrast to the court's higher standard of proof required to impose a *criminal* penalty, the department need only demonstrate a preponderance of evidence to uphold its *civil* licensing action. This, in theory, suggests that the department should at times be able to proceed with its civil action while the court falls short of establishing its required proof, but the reverse would not usually be expected. However, it has been argued that the department has become more restricted as a result of constraints placed on the *prima facie* case through published case law rulings. New constraints recently established by the *Solovij v. Gourley* case will now require the arresting officer to provide a more complete description on the sworn DS 367 report of the probable cause for taking the enforcement action than was previously required. Unless this decision is further altered by a subsequent court ruling or legislative change, this decision will require greater reliance on officer testimony to supersede an inadequate description of probable cause on the DS 367.

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